CHAPTER 48.

An Act to amend the Improvement of Land Act, 1899. [31st July 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Amendment of 62 & 63 Vict. c. 46.

1. The proviso to section one, subsection (3), of the Improvement of Land Act, 1899, so far as it applies to Great Britain, is hereby repealed.

Short title.

2. This Act may be cited as the Improvement of Land Act (1899) Amendment Act, 1925.

CHAPTER 49.

An Act to consolidate the Judicature Acts, 1873 to 1910, and other enactments relating to the Supreme Court of Judicature in England and the administration of justice therein. [31st July 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

CONSTITUTION OF THE SUPREME COURT.

The Supreme Court.

Supreme Court of Judicature.

1. There shall be a Supreme Court of Judicature in England consisting of His Majesty's High Court of Justice (in this Act referred to as "the High Court") and His Majesty's Court of Appeal (in this Act referred to as "the Court of Appeal"), with such jurisdiction as is conferred on those courts respectively by this Act.

The High Court.

Constitution of High Court.

2.—(1) The High Court shall be constituted of the following judges, that is to say, the Lord Chancellor, the

Lord Chief Justice, the President of the Probate Division and the puisne judges of the several Divisions.

(2) The Lord Chancellor or, in his absence, the Lord Chief Justice, shall be president of the High Court.

(3) All the judges of the High Court shall, save as is in this Act otherwise expressly provided, have in all respects equal power, authority and jurisdiction, and shall be addressed in the manner formerly customary in addressing the judges of the superior courts of common law.

(4) The puisne judges of the High Court shall be styled "Justices of the High Court."

Judges of Court of Appeal and ex-judges of Supreme Court qualified to sit as judges of High Court.

3.—(1) Subject to the provisions of this section, any judge of the Court of Appeal or any person who has held the office of a judge of the Court of Appeal or of a judge of the High Court, may, on the request of the Lord Chancellor, sit and act as a judge of the High Court or perform any other official or ministerial acts for or on behalf of any judge absent through illness or any other cause, or in the place of any other judge whose place becomes vacant, or as an additional judge of any Division:

Provided that—

(*a*) The Lord Chancellor shall not request any person who has held office as aforesaid to sit and act as a judge of the King's Bench Division, or of the Probate Division, except with the concurrence of the Lord Chief Justice or the President of the Probate Division respectively; and

(*b*) Nothing in this section shall be deemed to require any person who has held office as aforesaid to sit and act as a judge of the High Court unless he consents so to do.

(2) Every person while sitting and acting as a judge of the High Court under this section shall have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a judge of that court.

Divisions of High Court.

4.—(1) For the more convenient despatch of business in the High Court there shall be in the High Court three Divisions, namely:—

(i) The Chancery Division, consisting of the Lord Chancellor, who shall be president thereof, and six puisne judges;

(ii) The King's Bench Division, consisting of the Lord Chief Justice, who shall be president thereof, and (subject to the provisions of this Act) seventeen puisne judges;

(iii) The Probate, Divorce and Admiralty Division consisting of a president and two puisne judges.

(2) Any judge of any of the said Divisions may be transferred by His Majesty, under His Royal Sign Manual, from one to another of the said Divisions.

(3) Nothing in this section shall operate to prevent a judge of any Division from sitting whenever required in a divisional court or for any judge of another Division.

Power to alter Divisions by Order in Council.

5.—(1) His Majesty in Council may from time to time, on a report or recommendation of the council of judges of the Supreme Court assembled in pursuance of the provisions of Part X. of this Act, order that any reduction or increase in the number of the Divisions or in the number of the judges of the High Court who may be attached to any Division, may pursuant to such report or recommendation be carried into effect, and may give all such further directions as may be necessary or proper for that purpose:

Provided that the total number of the judges of the Supreme Court shall not be reduced or increased by any such Order.

(2) An Order in Council under this section shall not come into operation until it has been laid before each House of Parliament for thirty days on which that House has sat, or if within that period of thirty days an address is presented to His Majesty by either House of Parliament, praying that the Order may not come into operation.

(3) An Order in Council under this section shall, on coming into operation, have effect as if it were enacted in this Act.

The Court of Appeal.

Constitution of Court of Appeal.

6.—(1) The Court of Appeal shall be constituted of ex-officio judges and of five ordinary judges.

(2) The ex-officio judges of the Court of Appeal shall be the Lord Chancellor, any person who has held the office of Lord Chancellor, any Lord of Appeal in

Ordinary who at the date of his appointment would have been qualified to be appointed an ordinary judge of the Court of Appeal, or who at that date was a judge of that court, the Lord Chief Justice, the Master of the Rolls and the President of the Probate Division:

Provided that a person who has held the office of Lord Chancellor, or a Lord of Appeal in Ordinary, shall not be required to sit and act as a judge of the Court of Appeal unless on the request of the Lord Chancellor he consents so to do.

(3) The ordinary judges of the Court of Appeal shall be styled, and are in this Act referred to as, "Lords Justices of Appeal."

(4) The Lord Chancellor shall be president of the Court of Appeal.

Attendance of judge of High Court in Court of Appeal.

7.—(1) The Lord Chancellor may request the attendance at any time of any judge of the High Court to sit as an additional judge at the sittings of the Court of Appeal, and any judge whose attendance is so requested shall attend accordingly.

(2) Every judge who sits as an additional judge of the Court of Appeal in pursuance of such a request shall, during the time he so sits, have all the jurisdiction and powers of a judge of the Court of Appeal, but shall not otherwise be deemed to be a judge of that court or to have ceased to be a judge of the Division to which he belongs.

(3) Any such judge shall, although the period has expired during which his attendance was requested, attend the sittings of the Court of Appeal for the purpose of giving judgment or otherwise in relation to any case which may have been heard by the Court of Appeal during his attendance on the Court of Appeal.

Ex-judges of Supreme Court qualified to sit as judges of Court of Appeal.

8. The Lord Chancellor may at any time, subject to the provisions of this section, request any person who has held the office of a judge of the Court of Appeal or of a judge of the High Court to sit and act as a judge of the Court of Appeal, and every such person so requested shall, while so sitting and acting, have all the jurisdiction, powers and privileges of, but shall not otherwise be deemed to be, a judge of the Court of Appeal:

Provided that nothing in this section shall be deemed to require any such person as aforesaid to sit and act as a judge of the Court of Appeal unless he consents so to do.

Qualification of Judges, Vacancies, Tenure of Office, Salaries, &c.

Qualifications of judges of Supreme Court.

9.—(1) Any person being a barrister of not less than ten years' standing shall be qualified for appointment as a puisne judge of the High Court.

(2) Any person being a barrister of not less than fifteen years' standing or a judge of the High Court shall be qualified for appointment as a Lord Justice of Appeal.

(3) Any person qualified for appointment as a Lord Justice of Appeal, or being a judge of the Court of Appeal, shall be qualified for appointment as Lord Chief Justice, Master of the Rolls or President of the Probate Division.

Vacation of office.

10.—(1) The office of any judge of the High Court or of the Court of Appeal may be vacated by resignation in writing under his hand addressed to the Lord Chancellor, without any deed of surrender.

(2) The office of any judge of the High Court shall be vacated by his being appointed a judge of the Court of Appeal.

(3) Each of the said courts shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any judge of that court.

Filling of vacancies in High Court and Court of Appeal.

11.—(1) Whenever the office of a judge of the High Court (other than the Lord Chancellor) or of a Lord Justice of Appeal is vacant, a new judge may be appointed by His Majesty by Letters Patent:

Provided that—

(*a*) Whenever the whole number of the puisne judges attached to the King's Bench Division amounts to fifteen or upwards, a vacancy occurring among those judges shall not be filled unless and until an address is presented to His Majesty from both Houses of Parliament representing that the state of business in that Division requires that the vacancy should be filled, but where such an

address has been presented, it shall be lawful for His Majesty from time to time without any further address to fill any vacancy which may arise among the said judges at any time within a period of one year next after the date of the presentation to His Majesty of that address; and

(*b*) The judge appointed to fill a vacancy in the High Court shall, subject to the provisions of this Act and to rules of court, become a member of the same Division as that to which the vacating judge belonged.

(2) The persons appointed to fill the offices of Lord Chief Justice and Master of the Rolls and their successors respectively shall continue to be appointed to those offices with the same respective precedence and titles and in the same manner respectively as formerly.

(3) The Letters Patent for appointing a Lord Justice of Appeal shall be passed in the same manner in which Letters Patent for appointing the judges of the High Court are passed under the Great Seal.

Tenure of judges, oaths of office, and disqualification for sitting in House of Commons.

12.—(1) All the judges of the High Court and of the Court of Appeal, with the exception of the Lord Chancellor, shall hold their offices during good behaviour subject to a power of removal by His Majesty on an address presented to His Majesty by both Houses of Parliament.

(2) No judge of either of the said courts shall be capable of being elected to or of sitting in the House of Commons.

(3) Every person appointed to be judge of either of the said courts (other than the Lord Chancellor) shall, when he enters on the execution of his office, take, in the presence of the Lord Chancellor, the oath of allegiance and judicial oath as defined by the Promissory Oaths Act, 1868.

31 & 32 Vict. c. 72.

(4) The oaths to be taken by the Lord Chancellor shall be the same as immediately before the commencement of this Act.

Salaries of judges.

13.—(1) There shall be paid to the several judges of the High Court and of the Court of Appeal the following salaries respectively—

To the Lord Chancellor such yearly sum as with the amount payable to him as Speaker of the

House of Lords is sufficient to make up the sum of ten thousand pounds a year;

To the Lord Chief Justice the sum of eight thousand pounds a year;

To the Master of the Rolls the sum of six thousand pounds a year;

To each of the Lords Justices of Appeal, and to each of the judges of the High Court other than the Lord Chancellor and the Lord Chief Justice, the sum of five thousand pounds a year.

(2) The salary payable as aforesaid to any judge shall in each case include any pension which may have been granted to him in respect of any public office previously filled by him.

(3) Every salary payable as aforesaid shall begin from the date of appointment.

Pensions of judges.

14. His Majesty may, by Letters Patent, grant to any of the judges hereinafter mentioned who has served for fifteen years as a judge in the High Court and the Court of Appeal, or either of those courts, or who is disabled by permanent infirmity from the performance of the duties of his office, a pension, by way of annuity, to be continued during his life—

In the case of the Lord Chief Justice, not exceeding four thousand pounds a year;

In the case of the Master of the Rolls, not exceeding three thousand seven hundred and fifty pounds a year;

In the case of any Lord Justice of Appeal or any judge of the High Court, other than the Lord Chancellor and the Lord Chief Justice, not exceeding three thousand five hundred pounds a year.

Charge and payment of salaries and pensions.

15. The salaries and pensions payable to the judges of the Supreme Court under this Act shall—

(*a*) be charged on and paid out of the Consolidated Fund or the growing produce thereof; and

(*b*) accrue due from day to day; and

(*c*) be payable on the usual quarterly days of payment or at such other periods in every year as the Treasury may from time to time determine.

Precedence of judges.

16.—(1) The Lord Chief Justice and the Master of the Rolls, shall, when sitting and acting in the Court of Appeal, rank in that order, and a person who has held the office of Lord Chancellor or a Lord of Appeal in Ordinary shall, when so sitting and acting, rank according to his precedence as a peer.

(2) The President of the Probate Division shall have rank and precedence next after the Master of the Rolls.

(3) The Lords Justices of Appeal, if not entitled to precedence as peers or privy councillors, shall rank after the ex-officio judges and according to the priority of the dates at which they respectively became judges of the Court of Appeal.

(4) The judges of the High Court who are not also judges of the Court of Appeal shall rank next after the judges of the Court of Appeal, and among themselves according to the priority of the dates at which they respectively became judges of the High Court.

Power of judges to act in cases relating to rates and taxes.

17.—(1) A judge of the High Court or of the Court of Appeal shall not be incapable of acting in his judicial office in any proceeding by reason of his being as one of several ratepayers or as one of any other class of persons liable, in common with others, to contribute to or to be benefited by any rate or tax which may be increased, diminished or in any way affected by that proceeding.

(2) In this section the expression "rate or tax" means any rate, tax, duty or assessment whether public, general or local, and also any fund formed from the proceeds of any such rate, tax, duty or assessment, or applicable to the same or like purposes to which any such rate, tax, duty or assessment might be applied.

PART II.

JURISDICTION AND LAW.

Jurisdiction of the High Court.

General jurisdiction of High Court.

18.—(1) The High Court shall be a superior court of record.

(2) There shall be vested in the High Court:—

(*a*) Subject as otherwise provided in this Act, the jurisdiction which was formerly vested in, or

capable of being exercised by, all or any of the courts following:—

(i) The High Court of Chancery, both as a common law court and as a court of equity, including the jurisdiction of the Master of the Rolls as a judge or master of the Court of Chancery and any jurisdiction exercised by him in relation to the Court of Chancery as a common law court;

(ii) The Court of Queen's Bench;

(iii) The Court of Common Pleas at Westminster;

(iv) The Court of Exchequer, both as a court of revenue and as a common law court;

(v) The Court of Common Pleas at Lancaster;

(vi) The Court of Pleas at Durham;

(vii) The courts created by commissions of assize:

(*b*) All original jurisdiction which, under or by virtue of any enactment which came into force after the commencement of the Act of 1873 and is not repealed by this Act, was immediately before the commencement of this Act vested in or capable of being exercised by the High Court constituted by the Act of 1873:

(*c*) Such other jurisdiction, as is hereinafter in this Act conferred on the High Court.

(3) The jurisdiction vested in the High Court shall, subject as otherwise provided in this Act, include the jurisdiction which was formerly vested in, or capable of being exercised by, all or any one or more of the judges of the courts aforesaid respectively sitting in court or chambers or elsewhere, when acting as judges or a judge, in pursuance of any statute, law or custom, and all powers given to any such court or to any such judges or judge by any statute, and also all ministerial powers,

duties and authorities incident to any and every part of the jurisdictions so vested.

Jurisdiction not vested in High Court.

19. Subject to the provisions of any enactment which came into force after the commencement of the Act of 1873, there shall not be vested in the High Court—

(1) Any appellate jurisdiction formerly vested in the Court of Appeal in Chancery, or in that court sitting as a court of appeal in bankruptcy :

(2) Any jurisdiction formerly vested in the Court of Appeal in Chancery of the county palatine of Lancaster :

(3) Any jurisdiction which formerly was usually vested in the Lord Chancellor or in the Lords Justices of Appeal in Chancery, or either of them, in relation to the custody of the persons and estates of idiots, lunatics and persons of unsound mind:

(4) Any jurisdiction formerly vested in the Lord Chancellor in relation to grants of Letters Patent, or the issue of commissions or other writings to be passed under the Great Seal of the United Kingdom :

(5) Any jurisdiction formerly exercised by the Lord Chancellor in right of or on behalf of Her late Majesty as visitor of any college or of any charitable or other foundation :

(6) Any jurisdiction formerly vested in the Master of the Rolls in relation to records in London or elsewhere in England.

Probate jurisdiction of High Court.

20. Subject to the provisions of this Act the High Court shall, in relation to probates and letters of administration, have the following jurisdiction (in this Act referred to as "probate jurisdiction"), that is to say :—

(*a*) all such voluntary and contentious jurisdiction and authority in relation to the granting or revoking of probate and administration of the effects of deceased persons as was at the commencement

of the Court of Probate Act, 1857, vested in or exerciseable by any court or person in England, together with full authority to hear and determine all questions relating to testamentary causes and matters: 20 & 21 Vict. c. 77.

(*b*) all such powers throughout England in relation to the personal estate in England of deceased persons as the Prerogative Court of Canterbury had immediately before the commencement of the Court of Probate Act, 1857, in the Province of Canterbury or in the parts thereof within its jurisdiction in relation to those testamentary causes and matters and those effects of deceased persons which were at that date within the jurisdiction of that court:

(*c*) such like jurisdiction and powers with respect to the real estate of deceased persons as are hereinbefore conferred with respect to the personal estate of deceased persons:

(*d*) all probate jurisdiction which, under or by virtue of any enactment which came into force after the commencement of the Act of 1873 and is not repealed by this Act, was immediately before the commencement of this Act vested in or capable of being exercised by the High Court constituted by the Act of 1873:

and the court shall, in the exercise of the probate jurisdiction perform all such like duties with respect to the estates of deceased persons as were immediately before the commencement of the Court of Probate Act, 1857, to be performed by ordinaries generally or by the Prerogative Court of Canterbury in respect of probates, administrations and testamentary causes and matters which were at that date within their respective jurisdictions.

Jurisdiction of High Court in matrimonial causes and legitimacy declarations. 20 & 21 Vict. c. 85.

21. The High Court shall have such jurisdiction—

(*a*) in relation to matrimonial causes and matters, as was immediately before the commencement of the Matrimonial Causes Act, 1857, vested in or exerciseable by any ecclesiastical court or person in England in respect of divorce a mensâ et thoro, nullity of marriage, jactitation of marriage, or restitution of conjugal

rights, and in respect of any matrimonial cause or matter except marriage licences; and

(*b*) with respect to declarations of legitimacy and of validity of marriage, as is hereinafter in this Act provided;

and all such jurisdiction in relation to matrimonial causes and matters as, under or by virtue of any enactment which came into force after the commencement of the Act of 1873 and is not repealed by this Act, was immediately before the commencement of this Act vested in or capable of being exercised by the High Court constituted by the Act of 1873.

Admiralty jurisdiction of High Court.

22.—(1) The High Court shall, in relation to admiralty matters, have the following jurisdiction (in this Act referred to as "admiralty jurisdiction") that is to say—

(*a*) Jurisdiction to hear and determine any of the following questions or claims:—

(i) Any question as to the title to or ownership of a ship, or the proceeds of sale of a ship remaining in the admiralty registry, arising in an action of possession, salvage, damage, necessaries, wages or bottomry;

(ii) Any question arising between the co-owners of a ship registered at any port in England as to the ownership, possession, employment or earnings of that ship, or any share thereof, with power to settle any account outstanding and unsettled between the parties in relation thereto, and to direct the ship, or any share thereof, to be sold, or to make such order as the court thinks fit;

(iii) Any claim for damage received by a ship, whether received within the body of a county or on the high seas;

(iv) Any claim for damage done by a ship;

(v) Subject to the provisions of section five hundred and forty-seven of the Merchant Shipping Act, 1894, with respect to the summary determination of salvage disputes, any claim in the nature of salvage for services

57 & 58 Vict. c. 60.

rendered to a ship (including, subject to the provisions of the said Act, services rendered in saving life from a ship), whether rendered on the high seas or within the body of a county, or partly on the high seas and partly within the body of a county, and whether the wreck in respect of which the salvage is claimed is found on the sea or on the land, or partly on the sea and partly on the land;

(vi) Any claim in the nature of towage, whether the services were rendered within the body of a county or on the high seas;

(vii) Any claim for necessaries supplied to a foreign ship, whether within the body of a county or on the high seas, and, unless it is shown to the court that at the time of the institution of the proceedings any owner or part owner of the ship was domiciled in England, any claim for any necessaries supplied to a ship elsewhere than in the port to which the ship belongs;

(viii) Any claim by a seaman of a ship for wages earned by him on board the ship, whether due under a special contract or otherwise, and any claim by the master of a ship for wages earned by him on board the ship and for disbursements made by him on account of the ship;

(ix) Any claim in respect of a mortgage of any ship, being a mortgage duly registered in accordance with the provisions of the Merchant Shipping Acts, 1894 to 1923, or in respect of any mortgage of a ship which is, or the proceeds whereof are, under the arrest of the court;

(x) Any claim for building, equipping or repairing a ship, if at the time of the institution of the proceedings the ship is, or the proceeds thereof are, under the arrest of the court;

(xi) Any matter concerning booty of war, or the distribution thereof, which may be referred to the court by His Majesty in Council;

(xii) Any claim—

(1) arising out of an agreement relating to the use or hire of a ship; or

(2) relating to the carriage of goods in a ship; or

(3) in tort in respect of goods carried in a ship;

unless it is shown to the court that at the time of the institution of the proceedings any owner or part owner of the ship was domiciled in England:

(*b*) Any other jurisdiction formerly vested in the High Court of Admiralty:

(*c*) All admiralty jurisdiction which, under or by virtue of any enactment which came into force after the commencement of the Act of 1873 and is not repealed by this Act, was immediately before the commencement of this Act vested in or capable of being exercised by the High Court constituted by the Act of 1873.

(2) The provisions of paragraph (*a*) of subsection (1) of this section which confer on the High Court admiralty jurisdiction in respect of claims for damage shall be construed as extending to claims for loss of life or personal injuries.

(3) In this Act, unless the context otherwise requires, the expression "ship" includes any description of vessel used in navigation not propelled by oars.

Prize jurisdiction of High Court.

23. The High Court shall be a prize court within the meaning of the Naval Prize Acts, 1864 to 1916, as amended by any subsequent enactment, and shall have all such jurisdiction on the high seas and throughout His Majesty's Dominions and in every place where His Majesty has jurisdiction as, under any Act relating to naval prize or otherwise, the High Court of Admiralty possessed when acting as a prize court.

Jurisdiction of High Court with respect to appeals from inferior courts.

24. Subject as otherwise provided in this Act and to rules of court, the High Court shall have jurisdiction to hear and determine—

(*a*) any appeal from any court which might formerly have been brought to any court or judge whose

jurisdiction was by the Act of 1873 transferred to the High Court constituted by that Act; and

(*b*) any application, or any appeal, whether by way of case stated or otherwise, which under or by virtue of any enactment which came into force after the commencement of the Act of 1873 and is not repealed by this Act, the High Court constituted by that Act had power to hear and determine immediately before the commencement of this Act.

Cases stated by and appeals from quarter sessions. 11 & 12 Vict. c. 78. 12 & 13 Vict. c. 45.

25.—(1) Every case stated by a court of quarter sessions otherwise than under the Crown Cases Act, 1848, or the Quarter Sessions Act, 1849, for the consideration of the High Court shall be deemed to be an appeal, and shall be heard and determined accordingly.

(2) On the hearing of an appeal from a court of quarter sessions the appellate court may draw any inference of fact which might have been drawn in the court of quarter sessions, and may give any judgment or make any order which ought to have been given or made by that court, or may remit the order, and in criminal matters the conviction with the order, and the case stated on it, with the opinion or direction of the appellate court, for re-hearing and determination by the court of quarter sessions, or may remit the case for re-statement.

(3) On the hearing of any such appeal the appellate court shall have full power to determine how and by whom the costs of the proceedings in the appellate court and in the court of quarter sessions are to be borne.

(4) The judgment on any such appeal or, where an appeal to a court of quarter sessions has been directed to be entered for re-hearing, then that appeal shall on motion by any party to the appeal be entered at the sessions next or next but one after the delivery of the judgment or the giving of the direction, and shall unless the appellate court otherwise directs have effect as if the judgment had been given or, in case of an appeal directed to be re-heard, the appeal had been heard and determined, by the court of quarter sessions at the time of the decision in respect of which the appeal from quarter sessions was brought, and entry and respite of any appeal to quarter sessions in respect of which a case has been stated for the consideration of the High Court shall not be necessary.

Jurisdiction of the Court of Appeal.

Jurisdiction vested in Court of Appeal.

26.—(1) The Court of Appeal shall be a superior court of record.

(2) There shall be vested in the Court of Appeal:—

(*a*) All jurisdiction and powers formerly vested in the Lord Chancellor and the Court of Appeal in Chancery when exercising appellate jurisdiction:

(*b*) All jurisdiction and powers formerly vested in the Court of Exchequer Chamber:

(*c*) Subject to the provisions of this Act, all jurisdiction formerly vested in or capable of being exercised by Her late Majesty in Council, or the Judicial Committee of the Privy Council, on appeal from any judgment or order of the High Court of Admiralty, or from any order in lunacy made by the Lord Chancellor, or any other person having jurisdiction in lunacy:

(*d*) All jurisdiction which, under or by virtue of any enactment which came into force after the commencement of the Act of 1873 and is not repealed by this Act, was immediately before the commencement of this Act vested in or capable of being exercised by the Court of Appeal constituted by the Act of 1873.

Appeals from High Court.

27.—(1) Subject as otherwise provided in this Act and to rules of court, the Court of Appeal shall have jurisdiction to hear and determine appeals from any judgment or order of the High Court, and for all the purposes of and incidental to the hearing and determination of any appeal, and the amendment, execution and enforcement of any judgment or order made thereon, the Court of Appeal shall have all the power, authority and jurisdiction of the High Court:

Provided that an appeal from a judgment or order of the High Court when acting as a prize court shall not lie to the Court of Appeal, but shall lie to His Majesty in Council in accordance with the provisions of the Naval Prize Acts, 1864 to 1916.

(2) The decision of the Court of Appeal on any question arising under the provisions of this Act relating to matrimonial causes and matters and to declarations of legitimacy and of validity of marriage shall be final, except where the decision is either on the grant or refusal of a decree on a petition for dissolution or nullity of marriage or for such a declaration as aforesaid, or on a question of law on which the Court of Appeal gives leave to appeal.

Jurisdiction of Court of Appeal with respect to appeals from palatinate courts.

28. Subject to the provisions of this Act and to rules of court, the Court of Appeal shall have jurisdiction and power to hear and determine appeals from any judgment or order of the Lancaster Chancery Court or of the Chancellor of Durham in the same manner as the Court of Appeal has power to hear and determine appeals from judgments and orders of the High Court or a judge thereof.

Appeals from convictions for non-repair of highways, &c. 7 Edw. 7. c. 23.

29. An appeal shall lie to the Court of Appeal from a conviction on indictment at common law in relation to the non-repair or obstruction of any highway, public bridge or navigable river, in whatever court the indictment is tried, and shall not lie under the Criminal Appeal Act, 1907.

Motions for New Trial, Restrictions on Appeals, &c.

Motions for new trial.

30.—(1) Every motion for a new trial, or to set aside a verdict, finding or judgment, in any cause or matter in the High Court in which there has been a trial thereof or of any issue therein with a jury, shall be heard and determined by the Court of Appeal.

(2) Nothing in this section shall alter the practice in any criminal cause or matter or in bankruptcy, or in proceedings on the Crown side of the King's Bench Division.

Restrictions on appeals.

31.—(1) No appeal shall lie—

(*a*) except as provided by the Criminal Appeal Act, 1907, or this Act, from any judgment of the High Court in any criminal cause or matter;

(*b*) from an order allowing an extension of time for appealing from a judgment or order;

(*c*) from an order of a judge giving unconditional leave to defend an action;

(*d*) from the decision of the High Court or of any judge thereof where it is provided by any Act that the decision of any court or judge, the jurisdiction of which or of whom is now vested in the High Court, is to be final;

(*e*) from an order absolute for the dissolution or nullity of marriage in favour of any party who having had time and opportunity to appeal from the decree nisi on which the order was founded, has not appealed from that decree;

(*f*) without the leave of the divisional court or of the Court of Appeal, from the determination by a divisional court of any appeal to the High Court;

(*g*) subject to the provisions of this section as to appeals in matters of practice and procedure, without the leave of the judge by whom the order was made or of the Court of Appeal, from any order made by a judge of the High Court in chambers where no application to set aside or discharge the order has been made to a divisional court or the judge sitting in court, as the case may be;

(*h*) without the leave of the court or judge making the order, from an order of the High Court or any judge thereof made with the consent of the parties or as to costs only which by law are left to the discretion of the court;

(*i*) without the leave of the judge or of the Court of Appeal from any interlocutory order or interlocutory judgment made or given by a judge, except in the following cases, namely—

(i) where the liberty of the subject or the custody of infants is concerned;

(ii) where an injunction or the appointment of a receiver is granted or refused;

(iii) in the case of a decision determining the claim of any creditor or the liability of any contributory or the liability of any director or other officer under the Companies (Consolidation) Act, 1908, in respect of misfeasance or otherwise; 8 Edw. 7. c. 69.

(iv) in the case of a decree nisi in a matrimonial cause or a judgment or order in an admiralty action determining liability;

(v) in the case of an order on a special case stated under the Arbitration Act, 1889; 52 & 53 Vict. c. 49.

(vi) in such other cases, to be prescribed, as are in the opinion of the authority having power to make rules of court of the nature of final decisions;

(*j*) without the special leave of the High Court, from the decision of the High Court on any question of law, whether on appeal or otherwise, under the Parliamentary Elections Act, 1868, or Part IV. of the Municipal Corporations Act, 1882, or any Act amending either of those Acts, and if leave to appeal is granted the decision of the Court of Appeal in the case shall be final and conclusive; 31 & 32 Vict. c. 125. 45 & 46 Vict. c. 50.

(*k*) from the decision of the High Court on any appeal from a county court on a point of law arising in any probate cause or matter.

(2) An order refusing unconditional leave to defend an action shall not be deemed to be an interlocutory order within the meaning of this section.

(3) In matters of practice and procedure every appeal from a judge shall be to the Court of Appeal.

32. The jurisdiction vested in the High Court and the Court of Appeal respectively shall, so far as regards procedure and practice, be exercised in the manner provided by this Act or by rules of court, and where no special provision is contained in this Act or in rules of court with reference thereto, any such jurisdiction shall be exercised as nearly as may be in the same manner as Rules as to exercise of jurisdiction.

that in which it might have been exercised by the court to which it formerly appertained.

Special provisions as to exercise of admiralty jurisdiction.

33.—(1) The following provisions shall have effect in relation to the exercise by the High Court of the admiralty jurisdiction of the court:—

(*a*) If in any claim for salvage services the plaintiff does not recover more than three hundred pounds, he shall not be entitled to recover any costs of the proceedings unless it is certified by a court or a judge that the case was a fit one to be tried otherwise than summarily in manner provided by section five hundred and forty-seven of the Merchant Shipping Act, 1894:

57 & 58 Vict. c. 60.

(*b*) If in any claim arising out of an agreement relating to the use or hire of a ship, or any claim relating to the carriage of goods in a ship, or any claim in tort in respect of goods carried in a ship, the plaintiff recovers a less amount than twenty pounds, he shall not be entitled to any costs of the proceedings unless it is certified by the court or a judge that there was sufficient reason for bringing the proceedings in the High Court:

(*c*) If in any such claim as is mentioned in paragraph (*b*) of this subsection, the plaintiff recovers a less amount than three hundred pounds he shall not be entitled to any more costs than those to which he would be entitled if the proceedings had been brought in the county court unless it is certified by the court or a judge that there was sufficient reason for bringing the proceedings in the High Court:

(*d*) In any matter concerning booty of war the procedure of the court shall be the same as in cases of prize:

(*e*) Disputes relating to salvage may be determined on the application either of the salvor or of the owner of the property saved, or of their respective agents.

(2) The admiralty jurisdiction of the High Court may be exercised either in proceedings in rem or in proceedings in personam.

(3) Where, on an appeal from an admiralty action which has been heard in the county court with the assistance of nautical assessors, any party makes application to the High Court in that behalf, the court shall summon Trinity Masters to assist on the hearing of the appeal if the court is of opinion that such assistance is necessary or desirable.

Provisions for extraordinary duties of judges of former courts.

34.—(1) If in any case not expressly provided for by this Act any duty or any authority or power, not incident to the administration of justice in any court the jurisdiction of which is now vested in the High Court, has been imposed or conferred by any statute, law or custom on any judge of that court, every judge of the High Court shall, save as in this Act mentioned, be liable to perform that duty and empowered to exercise that authority or power, as if he had been duly appointed the successor of a judge formerly subject to that duty or possessing that authority or power and the Act of 1873 had not passed.

(2) Any such duty, authority or power imposed or conferred by any statute, law or custom in any such case as aforesaid on the Lord Chancellor, the Lord Chief Justice or the Master of the Rolls, shall continue to be performed and exercised by them respectively, and by their respective successors, in the same manner as formerly.

Lord Chief Justice to have powers of Chief Justice of Common Pleas and Chief Baron of Exchequer.

35.—(1) Where by any statute any power was given to or any act was required or authorised to be done by the Lord Chief Justice of the Common Pleas and the Lord Chief Baron of the Exchequer, or either of them, either solely or jointly with the Lord Chief Justice of the Queen's Bench or the Lord Chief Justice, and either with or without the Lord Chancellor or any judge, officer or person, that power may be exercised and that act done by the Lord Chief Justice.

(2) Where by any statute the concurrence of the Lord Chief Justice of the Common Pleas and the Lord Chief Baron of the Exchequer, or either of them, is required for the exercise of any power or the performance of any act, the concurrence of the Lord Chief Justice shall be sufficient.

Law and Equity.

Law and equity to be concurrently administered.

36. Subject to the express provisions of any other Act, in every civil cause or matter commenced in the High Court law and equity shall be administered by the High Court and the Court of Appeal, as the case may be, according to the provisions of the seven sections of this Act next following.

Equities of plaintiff.

37. If a plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief on any equitable ground against any deed, instrument or contract, or against any right, title or claim whatsoever asserted by any defendant or respondent in the cause or matter, or to any relief founded upon a legal right, which formerly could only have been given by a court of equity, the court or judge shall give to the plaintiff or petitioner the same relief as ought formerly to have been given by the Court of Chancery in a suit or proceeding for the like purpose properly instituted.

Equitable defences.

38. If a defendant claims to be entitled to any equitable estate or right, or to relief on any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by any plaintiff or petitioner in the cause or matter, or alleges any ground of equitable defence to any such claim of the plaintiff or petitioner, the court or judge shall give to every equitable estate, right or ground of relief so claimed, and to every equitable defence so alleged, the same effect by way of defence against the claim of the plaintiff or petitioner, as the Court of Chancery ought formerly to have given if the like matters had been relied on by way of defence in any suit or proceeding instituted in that court for the like purpose.

Counter-claims and third parties.

39.—(1) The court or judge shall have power to grant to any defendant in respect of any equitable estate or right or other matter or equity, and also in respect of any legal estate, right or title claimed or asserted by him—

(*a*) all such relief against any plaintiff or petitioner as the defendant has properly claimed by his pleading, and as the court or judge might have

granted in any suit instituted for that purpose by that defendant against the same plaintiff or petitioner; and

(*b*) all such relief relating to or connected with the original subject of the cause or matter, claimed in like manner against any other person, whether already a party to the cause or matter or not, who has been duly served with notice in writing of the claim pursuant to rules of court or any order of the court, as might properly have been granted against that person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose.

(2) Every person served with any such notice as aforesaid shall thenceforth be deemed a party to the cause or matter with the same rights in respect of his defence against the claim as if he had been duly sued in the ordinary way by the defendant.

Equities appearing incidentally.

40. The court or judge shall take notice of all equitable estates, titles and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the Court of Chancery would formerly have taken notice of those matters in any suit or proceeding duly instituted therein.

Defence or stay instead of injunction or prohibition.

41. No cause or proceeding at any time pending in the High Court or the Court of Appeal shall be restrained by prohibition or injunction, but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might formerly have been obtained, whether unconditionally or on any terms or conditions, may be relied on by way of defence thereto:

Provided that—

(*a*) Nothing in this Act shall disable either of the said courts, if it thinks fit so to do, from directing a stay of proceedings in any cause or matter pending before it; and

(*b*) Any person, whether a party or not to any such cause or matter, who would formerly have been entitled to apply to any court to restrain

the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule or order, in contravention of which all or any part of the proceedings in the cause or matter have been taken, may apply to the High Court or the Court of Appeal, as the case may be, by motion in a summary way, for a stay of proceedings in the cause or matter, either generally, or so far as may be necessary for the purposes of justice, and the court shall thereupon make such order as shall be just.

Common law and statutory rights and duties.

42. Subject to the provisions of this Act for giving effect to equitable rights and other matters of equity, the court or judge shall give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations and liabilities existing by the common law or by any custom, or created by any statute, in the same manner as those matters would formerly have been given effect to by any of the courts the jurisdiction of which was vested in the High Court constituted by the Act of 1873.

Determination of matter completely and finally.

43. The High Court and the Court of Appeal respectively, in the exercise of the jurisdiction vested in them by this Act, shall, in every cause or matter pending before the court, grant, either absolutely or on such terms and conditions as the court thinks just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim properly brought forward by them in the cause or matter, so that, as far as possible, all matters in controversy between the parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of those matters avoided.

Rules of equity to prevail.

44. Subject to the express provisions of any other Act, in questions relating to the custody and education of infants and generally in all matters not particularly mentioned in this Act, in which there was formerly or is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail in all courts whatsoever in England so far as the matters to which those rules relate are cognizable by those courts.

Miscellaneous.

Mandamus, injunctions and receivers.

45.—(1) The High Court may grant a mandamus or an injunction or appoint a receiver by an interlocutory order in all cases in which it appears to the court to be just or convenient so to do.

(2) Any such order may be made either unconditionally or on such terms and conditions as the court thinks just.

(3) If, whether before, or at, or after the hearing of any cause or matter, an application is made for an injunction to prevent any threatened or apprehended waste or trespass, the injunction may be granted, if the court thinks fit, whether the person against whom the injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable.

Relief against forfeiture for non-payment of rent.

46. In the case of any action for a forfeiture brought for non-payment of rent, the High Court or a judge thereof shall have power to give relief in a summary manner, and subject to the same terms and conditions in all respects as to payment of rent, costs and otherwise as could formerly have been imposed in the Court of Chancery, and if the lessee, his executors, administrators or assigns are so relieved they shall hold the demised premises according to the terms of the lease and without the necessity of any new lease.

Execution of instruments by order of court.

47. Where any person neglects or refuses to comply with a judgment or order directing him to execute any conveyance, contract or other document, or to indorse any negotiable instrument, the High Court may, on such terms and conditions, if any, as may be just, order that the conveyance, contract or other document shall be executed or that the negotiable instrument shall be indorsed by such person as the court may nominate for that purpose, and a conveyance, contract, document or instrument so executed or indorsed shall operate and be for all purposes available as if it had been executed or indorsed by the person originally directed to execute or indorse it.

Quo warranto.

48. Proceedings in quo warranto shall be deemed to be civil proceedings whether for purposes of appeal or otherwise.

Subpœna issued by High Court to run throughout United Kingdom.

49.—(1) If in any cause or matter in the High Court (including a cause or matter referred to an official or special referee or arbitrator under the provisions of this Act relating to inquiries and trials by referees) it appears to the court or a judge that it is proper to compel the personal attendance at any trial of a witness who may not be within the jurisdiction of the court, it shall be lawful for the court or a judge, if in the discretion of the court or a judge it seems fit so to do, to order that a writ of subpœna ad testificandum or writ of subpœna duces tecum shall issue in special form commanding the witness to attend the trial wherever he shall be within the United Kingdom, and the service of any such writ in any part of the United Kingdom, shall be as valid and effectual to all intents and purposes as if it had been served within the jurisdiction of the High Court.

(2) Every such writ shall have at its foot a statement to the effect that it is issued by the special order of the court or a judge as the case may be, and no such writ shall issue without such a special order.

(3) If any person served with a writ issued under this section does not appear as required by the writ, the High Court, on proof to the satisfaction of the court of the service of the writ and of the default, may transmit a certificate of the default under the seal of the court or under the hand of a judge of the court, in case the service was in Scotland to the Court of Session at Edinburgh, and in case the service was in Northern Ireland to the High Court of Justice of Northern Ireland at Belfast, and the court to which the certificate is so sent shall thereupon proceed against and punish the person so having made the default in like manner as if that person had neglected or refused to appear in obedience to process issued out of that court.

(4) No court shall in any case proceed against or punish any person for having made such default as aforesaid unless it is shown to the court that a reasonable and sufficient sum of money to defray the expenses of coming and attending to give evidence and of returning

from giving evidence was tendered to that person at the time when the writ was served upon him.

(5) Nothing herein contained shall alter or affect:—

(*a*) the power of the High Court to issue a commission for the examination of witnesses out of the jurisdiction of the court in any case in which, notwithstanding this section, the court thinks fit to issue such a commission; or

(*b*) the admissibility of any evidence at any trial where such evidence is now by law receivable on the ground of any witness being beyond the jurisdiction of the court, and the admissibility of any such evidence shall be determined as if this section and any enactment reproduced by this section had not passed.

Costs.

50.—(1) Subject to the provisions of this Act and to rules of court and to the express provisions of any other Act, the costs of and incidental to all proceedings in the Supreme Court, including the administration of estates and trusts, shall be in the discretion of the court or judge, and the court or judge shall have full power to determine by whom and to what extent the costs are to be paid.

(2) Nothing in this section shall alter the practice in any criminal cause or matter, in bankruptcy or in proceedings on the Crown side of the King's Bench Division.

Restriction on institution of vexatious actions.

51.—(1) If, on an application made by the Attorney-General under this section, the High Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings, whether in the High Court or in any inferior court, and whether against the same person or against different persons, the court may, after hearing that person or giving him an opportunity of being heard, order that no legal proceedings shall without the leave of the High Court or a judge thereof be instituted by him in any court, and such leave shall not be given unless the court or judge is satisfied that the proceedings are not an abuse of the process of the court and that there is primâ facie ground for the proceedings.

(2) If the person against whom an order is sought under this section is unable on account of poverty to retain counsel, the High Court shall assign counsel to him.

(3) A copy of any order made under this section shall be published in the London Gazette.

PART III.

SITTINGS, DISTRIBUTION OF BUSINESS, AND ASSIZES.

Sittings and Vacations.

Provision for continuous sittings at Royal Courts of Justice.

52. Subject to rules of court, such number of judges of the High Court as may be requisite having regard to the business to be disposed of shall, so far as reasonably practicable and subject to vacations, sit continuously at the Royal Courts of Justice for the trial of causes in the King's Bench Division.

Vacations.

53.—(1) His Majesty may from time to time by Order in Council, on a report or recommendation made, with the concurrence of the Lord Chancellor, by the council of judges of the Supreme Court assembled in pursuance of the provisions of Part X. of this Act, make, revoke or modify orders regulating the vacations to be observed by the High Court and the Court of Appeal and in the offices of the said courts respectively.

(2) Any Order in Council made in pursuance of this section shall, so long as it continues in force, have effect as if enacted in this Act, and rules of court may be made accordingly for carrying the Order into effect.

Sittings in vacation.

54. Provision shall be made by rules of court for the hearing during vacation by judges of the High Court and the Court of Appeal respectively of all such applications as may require to be immediately or promptly heard.

Distribution of Business.

Distribution of business.

55. Without prejudice to any other provision of this Act, all causes and matters in the High Court

shall, subject to the power of transfer, be distributed among the several Divisions and judges of the High Court, in such manner as may be directed by rules of court, and subject thereto all such causes and matters shall be assigned to the said Divisions respectively in the manner hereinafter provided.

Assignment of business to Divisions.

56. Without prejudice to any other provision of this Act, there shall be assigned—

(1) To the Chancery Division—

(*a*) All causes and matters in respect of which exclusive jurisdiction was under any Act given to the Court of Chancery or to any judge thereof:

(*b*) All causes and matters for any of the following purposes:

The administration of the estates of deceased persons;

The dissolution of partnerships or the taking of partnership or other accounts;

The redemption or foreclosure of mortgages;

The raising of portions or other charges on land;

The sale and distribution of the proceeds of property subject to any lien or charge;

The execution of trusts, charitable or private;

The rectification or setting aside, or cancellation of deeds or other written instruments;

The specific performance of contracts between vendors and purchasers of real estates, including contracts for leases;

The partition or sale of real estates;

The wardship of infants and the care of infants estates:

(*c*) All causes and matters which under, by virtue of or in pursuance of any enactment for the time being in force are assigned to that Division.

(2) To the King's Bench Division—

(*a*) All causes and matters, civil and criminal, which, if the Act of 1873 had not passed, would have been within the exclusive cognizance of the Court of Queen's Bench in the exercise of its original jurisdiction, or of the Court of Common Pleas at Westminster, or of the Court of Exchequer, either as a court of revenue or as a common law court:

(*b*) All causes and matters which under, by virtue of or in pursuance of any enactment for the time being in force are assigned to that Division.

(3) To the Probate Division—

(*a*) All causes and matters which, if the Act of 1873 had not passed, would have been within the exclusive cognizance of the Court of Probate, or the Court for Divorce and Matrimonial Causes, or of the High Court of Admiralty:

(*b*) All causes and matters within the jurisdiction of the High Court as a prize court:

(*c*) All causes and matters which under, by virtue of or in pursuance of any enactment for the time being in force are assigned to that Division.

Power of Lord Chancellor to re-distribute business among Divisions.

57.—(1) The Lord Chancellor may, if at any time it appears to him desirable so to do with a view to the more convenient administration of justice, by order direct that any jurisdiction vested in the High Court in respect of any matter which by any enactment (including this Act) or any rule or order made under any enactment (including this Act) is assigned to any Division shall, notwithstanding that enactment, rule or order, be assigned to such other Division as may be specified in the order and shall be exercised either by any special judge or judges or by all the judges of that other Division:

Provided that an order shall not be made under this subsection except with the concurrence both of the president of the Division to which the jurisdiction is at the time assigned and of the president of the Division to which the jurisdiction is to be transferred.

(2) Where under any enactment a right of appeal to the High Court or to any Division is given from decisions given by county courts in pursuance of the jurisdiction vested in county courts in respect of any matter, the Lord Chancellor may, notwithstanding anything in any enactment, by order direct to which Division the appeal shall lie.

(3) Any order made under this section may at any time be revoked, varied or amended by a subsequent order so made.

Option for plaintiff to choose Division.

58. Subject to rules of court and to the provisions of this Act, every person by whom any cause or matter is commenced in the High Court shall assign the cause or matter to such Division as he thinks fit by marking the document by which the cause or matter is commenced with the name of that Division and giving notice thereof to the proper officer:

Provided that—

(1) All interlocutory and other steps and proceedings in or before the High Court in any cause or matter subsequent to the commencement thereof, shall, subject to rules of court and to the power of transfer, be taken in the Division to which the cause or matter is for the time being attached; and

(2) If any plaintiff or petitioner assigns his cause or matter to any Division to which, according to rules of court or the provisions of this Act, it ought not to be assigned, the court or any judge of that Division, on being informed thereof, may, on a summary application at any stage of the cause or matter, direct the cause or matter to be transferred to the Division to which, according to those rules or provisions, it ought to have been assigned, or may retain it in the Division in which it was commenced; and

(3) All steps and proceedings taken by the plaintiff or petitioner or by any other party in any cause or matter and all orders made therein by the court or any judge thereof before any transfer shall be valid and effectual to all intents and purposes in the same manner as if

the steps and proceedings had been taken and the orders had been made in the Division to which the cause or matter ought to have been assigned; and

(4) Subject to rules of court, a person commencing any cause or matter shall not assign it to the Probate Division, unless he would have formerly been entitled to commence that cause or matter in the Court of Probate or the Court for Divorce and Matrimonial Causes, or unless the cause or matter is within the admiralty jurisdiction of the High Court.

Power of transfer.

59. Any cause or matter may at any time and at any stage thereof, and either with or without application from any of the parties thereto, be transferred by such authority and in such manner as rules of court may direct from one Division or judge of the High Court to any other Division or judge thereof, or may by the like authority be retained in the Division in which it was commenced, although not the Division to which it ought in the first instance to have been assigned.

Proceedings in High Court to be disposed of by single judge.

60. Every proceeding in the High Court and all business arising thereout shall, so far as is practicable and convenient and subject to the provisions of this Act relating to divisional courts, be heard and disposed of before a single judge, and all proceedings in an action subsequent to the hearing or trial, down to and including the final judgment or order, shall, so far as is practicable and convenient, be taken before the judge before whom the trial or hearing took place.

Powers of single judge in court and in chambers.

61.—(1) A judge of the High Court may, subject to rules of court, exercise in court or in chambers all or any part of the jurisdiction vested in the High Court, in all such causes and matters and in all such proceedings in any causes or matters as might formerly have been heard in court or in chambers respectively by a single judge of any of the courts whose jurisdiction is vested in the High Court, or as may be directed or authorised to be so heard by rules of court, or by or in pursuance of any Act passed after the commencement of the Act of 1873, and for the time being in force.

(2) A judge of the High Court sitting in court shall be deemed to constitute a court of the High Court.

Discharge of orders made in chambers.

62. Subject to the provisions of this Act with respect to appeals in matters of practice and procedure, every order made by a judge of the High Court in chambers, except orders as to costs only which by law are left to the discretion of the court, may be set aside or discharged upon notice by any divisional court, or by the judge sitting in court, according to the practice of the Division to which the cause or matter in which the order was made is assigned.

Divisional courts of High Court.

63.—(1) Divisional courts may be held for the transaction of any business in the High Court which may be ordered by rules of court to be heard by a divisional court, and in all cases where there is a right of appeal to the High Court from any court or person the appeal shall be heard and determined by a divisional court.

(2) Divisional courts shall, for the purpose of the causes and matters which are to be heard by such courts, exercise all or any part of the jurisdiction of the High Court.

(3) Any number of divisional courts may sit at the same time.

(4) Every judge of the High Court shall be qualified to sit in any divisional court.

(5) The judge who is according to the order of precedence under this Act the senior of the judges constituting a divisional court shall be the president of the court.

(6) A divisional court shall be constituted of two judges and no more:

Provided that—

(*a*) The decisions of a divisional court shall not be invalidated by reason of the court being constituted of a greater number than two judges; and

(*b*) If the president of the Division to which the divisional court belongs, with the concurrence of the other judges of the Division or a majority thereof, or in the case of the King's Bench Division with the concurrence of not

less than two other judges of the Division, is of opinion that the divisional court should be constituted of a greater number of judges than two, the court may be constituted of such number of judges as the president, with such concurrence as aforesaid, thinks expedient; and

(*c*) A divisional court for hearing such an appeal as aforesaid shall be constituted in accordance with rules of court.

Duty of judges as to divisional courts.

64.—(1) Subject to rules of court, it shall be the duty of every judge of the High Court who is not for the time being occupied in the transaction of any business specially assigned to him or in the business of any other divisional court, to take part, if required, in the sittings of such divisional courts as may from time to time be necessary for the transaction of the business assigned to the King's Bench Division.

(2) All such arrangements as may be necessary or proper for that purpose or for constituting or holding divisional courts for any other purpose authorised by this Act, and also for the proper transaction of that part of the business of the King's Bench Division which is not to be transacted by a divisional court, shall be made from time to time under the direction and superintendence of the judges of the High Court, and in case of difference among them, in such manner as the majority of the judges, with the concurrence of the Lord Chief Justice, shall determine.

Distribution of business in Chancery Division.

65. Every cause or matter which is commenced in the Chancery Division shall be assigned in accordance with rules of court to one of the judges of that Division.

Power of judge of High Court to act for another judge or as an additional judge.

66.—(1) Any judge of any Division who may consent so to do may, on the request of the Lord Chancellor, sit and act for or on behalf of any other judge of the High Court absent from illness or any other cause, or in the place of any judge whose office has become vacant, or as an additional judge of any Division, for the purpose of hearing any causes or matters which may be assigned to him by the Lord Chancellor, or any applications therein:

Provided that no judge shall sit and act as an additional judge of any Division, except with the concurrence of the president of the Division to which he belongs and of the president of the Division in which he is requested so to sit and act, and the assignment to him of any causes or matters depending in the Division in which he so sits and acts shall not be made except with the concurrence of the president of that last-mentioned Division.

(2) Any proceeding in any cause or matter assigned to any judge of the High Court may, on the request and on behalf of that judge, at any time and without any transfer, be heard and disposed of by any other judge of the same Division, who may be willing to hear and dispose of the same:

Provided that if any party to the proceeding objects to the proceeding being so heard and disposed of it shall not be so heard and disposed of without the concurrence of the Lord Chancellor, to be signified by an order in writing under his hand.

(3) In any case of urgency arising during the absence from illness or any other cause of any judge of the High Court to whom any cause or matter has been assigned, or during any vacancy in the office of any such judge, any other judge of the High Court, who consents so to do, may hear and dispose of any application for an injunction or other interlocutory order for or on behalf of the absent judge, or in the place of the judge whose office is vacant.

(4) A judge shall, while sitting and acting under this section for another judge or as an additional judge of another Division, have all such power and authority as that other judge would have had or as ordinarily belongs to a judge of that other Division, as the case may be.

Selection of judges for trial of election petitions. 31 & 32 Vict. c. 125.

67.—(1) The judges to be placed on the rota for the trial of election petitions in England in each year, under the provisions of the Parliamentary Elections Act, 1868, or any Act amending that Act, shall be selected out of the judges of the King's Bench Division in such manner as may be provided by rules of court, and, subject thereto, shall be selected as follows, that is to say, the judges

of the King's Bench Division shall, on or before the fourth day of November in every year select by a majority of votes three of the puisne judges of that Division (none of whom shall be a member of the House of Lords) to be placed on the rota for the trial of election petitions during the ensuing year.

(2) If in any case the judges present at the time of their meeting to make such selection are equally divided in their choice of any judge to be placed on the rota, the Lord Chief Justice, or in case of his absence the senior judge then present, shall have a second or casting vote.

(3) The choice of a judge to fill any occasional vacancy on the rota or to assist the judge on the rota as an additional judge, shall be made in like manner.

(4) If at the end of the year for which a judge has been appointed under this section, any trial or other matter is pending before him, either alone or together with any other judge, or if after the conclusion of any trial or hearing judgment has not been given thereon, it shall be lawful for the judge to proceed with and to conclude that pending trial or other matter and to give judgment thereon after the end of that year, in the same manner in all respects as if the year for which he was appointed had not expired.

Sittings of Court of Appeal.

68.—(1) Subject to the provisions of this Act every appeal to the Court of Appeal which is an appeal against a final order or judgment, or is by way of motion for a new trial or to set aside a verdict, finding or judgment in any cause or matter in the High Court in which there has been a trial thereof or of any issue therein with a jury, shall be heard before not less than three judges of the Court of Appeal, and every such appeal shall, when it is an appeal against an interlocutory order or judgment, be heard before not less than two judges of that court.

(2) Any doubt which may arise as to what orders or judgments are final, and what are interlocutory, shall be determined by the Court of Appeal.

(3) Subject to the provisions of this section the Court of Appeal may sit in three divisions at the same time.

(4) No judge of the Court of Appeal shall sit as a judge on the hearing of an appeal from a judgment or order made in any case by himself or by any divisional court of the High Court of which he was a member.

(5) Notwithstanding anything in the foregoing provisions of this section, if all parties to an appeal or motion before the hearing file a consent to the appeal or motion being heard and determined before two judges of the Court of Appeal, the appeal or motion may be heard and determined accordingly, subject nevertheless to the same right, if any, of appeal to the House of Lords as if the hearing and determination had been before three judges :

Provided that—

(*a*) In all causes or matters to which any infant or person of unsound mind, whether so found by inquisition or not, or person under any other disability, is a party, no such consent shall be given by the next friend, guardian, committee or other person acting on behalf of the person under disability, so as to have the same force and effect as if that party were under no disability and had given such consent, unless with the previous consent of a court or a judge, nor so as to make such consent valid as between any committee of a lunatic and the lunatic, unless with the previous sanction of the Lord Chancellor or Lords Justices sitting in lunacy ; and

(*b*) If two judges having heard an appeal or motion differ in opinion, the case shall, on the application of any party to the appeal, be re-argued and determined by three judges before appeal to the House of Lords.

Power of a single judge in Court of Appeal.

69.—(1) In any cause or matter pending before the Court of Appeal, any direction incidental thereto not involving the decision of the appeal may be given by a single judge of that court, and a single judge of that court may at any time during vacation make any interim order to prevent prejudice to the claims of any parties pending an appeal, as he may think fit.

(2) Every order made by a single judge of the Court of Appeal in pursuance of this section may be discharged

or varied by any judges of that court having power to hear and determine the appeal.

Circuits and Assizes.

Commissions of assize and jurisdiction of commissioners.

70.—(1) His Majesty may, by commission of assize or any other commission, either general or special, assign to such judges of the High Court or other persons as are named therein, the duty of trying and determining within any place or district specially fixed for that purpose by the commission, any causes or matters, or any questions or issues of fact or of law or partly of fact and partly of law in any cause or matter, depending in the High Court, or the exercise of any civil or criminal jurisdiction capable of being exercised by the High Court, and any commission so granted by His Majesty shall have effect as if enacted in this Act.

(2) Commissioners of assize shall be appointed by His Majesty by Letters Patent.

(3) The judges of the High Court to be named in commissions of assize shall be judges of the King's Bench Division, but every judge of the Probate Division shall, so far as the state of business in that Division will admit, share with the other judges the duty of holding sittings under commissions of assize, and His Majesty may include in any such commission the Master of the Rolls, any Lord Justice of Appeal, any judge of the Chancery Division, any judge of county courts, any of His Majesty's counsel learned in the law, and, if he consents to act, any person who has held the office of a judge of the Court of Appeal or of a judge of the High Court, and any person included in a commission of assize shall for the purposes of the commission have all the power, authority and jurisdiction of a judge of the High Court.

(4) A commissioner appointed in pursuance of this section shall when engaged in the exercise of any jurisdiction assigned to him in pursuance of this Act be deemed to constitute a court of the High Court.

(5) A commissioner acting under a commission of assize or any other commission issued under this section, shall, subject to rules of court, have power to try and determine matrimonial causes of any prescribed class and any matters arising out of or connected with any such

causes, and shall for that purpose have all such powers and duties as are vested in the Probate Division under the enactments (including this Act) relating to matrimonial causes and matters.

For the purpose of the foregoing provision, the expression "prescribed" means prescribed by the Lord Chancellor by order made with the concurrence of the Lord Chief Justice and the President of the Probate Division.

(6) The counties palatine of Lancaster and Durham respectively shall not, so far as respects any commission issued under this section, be counties palatine, and a commission under this section may be issued for the trial of all causes and matters within those counties respectively in the same manner in all respects as in any other county.

Power to try revenue causes on circuit without commission.

71. All commissioners of assize shall have power and authority on their respective circuits to try revenue causes and proceedings and to proceed thereon in like manner as they may do in respect of other civil causes, and it shall not be necessary to issue any special commission to enable revenue causes to be tried.

Regulation of circuits.

72.—(1) His Majesty may from time to time, by Order in Council, provide in such manner and subject to such regulations as to His Majesty may seem meet, for all or any of the following matters:

(*a*) For the discontinuance, either temporarily or permanently and either wholly or partially, of any former circuit, and the formation of any new circuit by the union of any counties or parts of counties, or partly in one way and partly in the other, or by the constitution of any county or part of a county to be a circuit by itself:

(*b*) For the appointment of the place or places at which assizes are to be held on any circuit, and for directing that assizes or any special commissions shall be held at more than one place in the same county on the same circuit, and for the holding of assizes for the despatch of criminal business for a whole county at one place, and for the despatch of civil business at one or more place or places in the same county on the same circuit:

(*c*) Where any Order is made under this section directing that assizes or any special commission shall be held at more than one place in any one county, for dividing the county for the purposes of the Order:

(*d*) For altering by such authority and in such manner as may be specified in the Order the day appointed for holding the assizes at any place on a circuit in any case, where by reason of the pressure of business or other unforeseen cause it is expedient to alter the day so appointed:

(*e*) Where it appears to His Majesty that by reason of the small number of prisoners or otherwise it is usually inexpedient to hold separate winter or spring assizes in a county, for uniting the county for the purpose of winter or spring assizes to any neighbouring county or counties, for appointing the place or places at which winter or spring assizes are to be held for the united counties, and for directing that winter or spring assizes to be held for the united counties shall be held at different places in different years:

(*f*) For the jurisdiction of the court and the attendance, jurisdiction, authority and duty of sheriffs, gaolers, officers, jurors and persons, the use of any prison, the removal of prisoners, the alteration of any commission, writ, precept, indictment, recognizance, proceeding or document, the transmission of recognizances, inquisitions and documents, and the costs of the prosecution and defence, and of maintaining and removing prisoners, so far as may seem to His Majesty necessary for carrying into effect any Order made under this section:

(*g*) For the regulation, so far as may be necessary for carrying into effect any Order made under this section, of the venue in all cases, civil and criminal, triable on any circuit or elsewhere:

(*h*) For any matters which appear to His Majesty to be necessary or proper for carrying into effect any Order made under this section.

(2) Where by Order in Council counties are united for the purpose of winter or spring assizes, the counties

united shall, subject to the provisions of the Order, be deemed to be one county, and the winter and spring assizes held in and for the united county shall be deemed also to be held in and for each of the constituent counties.

(3) His Majesty may from time to time by Order in Council revoke, amend or vary any Order made in pursuance of this section.

(4) Every Order in Council made under this section shall be laid before Parliament and notice of the Order having been made and of the place where copies thereof may be purchased shall be published in the London Gazette.

(5) Every Order in Council purporting to be made in pursuance of this section shall, while in force, have effect as if enacted in this Act.

Provision for counties adjoining Central Criminal Court district.

73.—(1) His Majesty may, by Order in Council, direct that, subject to any exceptions contained in the Order, the jurisdiction of the justices and judges of the Central Criminal Court at any session of oyer and terminer and gaol delivery held for the district within the jurisdiction of the Central Criminal Court in September, October, November, December, January, March, April or May, shall extend to any adjoining county or part of a county mentioned in the Order as if that county or part were included within the limits of the said district, and may apply, with such modifications and exceptions, if any, as to His Majesty seem fit, the Central Criminal Court Acts, 1834 and 1881, to the said county or part of a county and offences committed therein, as if that county or part were a county or part of a county mentioned in those Acts.

(2) Every Order in Council made under this section shall be laid before Parliament, and notice of the Order having been made and of the place where copies thereof may be purchased shall be published in the London Gazette.

(3) Every Order in Council purporting to be made in pursuance of this section shall, while in force, have effect as if enacted in this Act.

Sessions of Central Criminal Court.

74. The power of making general orders for fixing the times of holding sessions of the Central Criminal Court under section fifteen of the Central Criminal Court

4 & 5 Will. 4. c. 36.

Act, 1834, may be exercised by any four or more of the judges of the High Court.

Place for holding courts of assize.

75.—(1) A court of assize may be held in any building, whether in or belonging to the county, city, town, borough or other area of jurisdiction, for which the court is held.

(2) A commissioner of assize may, by proclamation in open court, adjourn the court from the building in which he is then holding the assizes to such other building as he may deem convenient, whether within the same area of jurisdiction or not, and all persons required to attend at the assizes shall attend wherever the court is so held, and shall do all things which they might have been required to do if the court had not been adjourned, and shall be subject to the like penalties in default thereof, and all evidence given and all things done at any such court shall be deemed, and in all indictments, pleadings, rules and entries shall be alleged, to have been given and done respectively within the area of jurisdiction within which the court would have been held if there had been no adjournment.

(3) Nothing in this section shall authorise the holding of a court of assize in any place more than three miles distant from the area of jurisdiction for which the court is held.

Date of proceedings where commission day postponed.

76. Where a commission of assize is not opened at any place on the day appointed, all records and other proceedings relating to the commission of assize shall be drawn out, entered and made up under the same date and in the same form in all respects as if the commission of assize had been opened on the day originally appointed for that purpose.

Power to dispense with holding of assizes in places where unnecessary.

77.—(1) If at any time it appears to the Lord Chief Justice that there is no business, or no substantial amount of business, to be transacted at the assizes then about to be held at any place on a circuit and that having regard to all the circumstances of the case it is desirable that an order should be made under this section, he may, with the concurrence of the Lord Chancellor, by order direct that assizes shall not on the occasion of that circuit be held at that place, and where any such order is made then, notwithstanding any enactment or

custom to the contrary, assizes shall not on that occasion be held at the place specified in the order.

(2) There may be included in an order made under this section provision for any matters (including any of the matters mentioned in paragraph (*f*) of subsection (1) of section seventy-two of this Act) for which it appears to the Lord Chief Justice to be necessary or proper to make provision with a view to giving full effect to the order.

(3) Any order made under this section may at any time be revoked, varied or amended by a subsequent order so made.

Dispensing with attendance of jurors at assizes where there is no business.

78.—(1) If, not more than five days before the day appointed by Order in Council for the holding of assizes in any place (in this section referred to as "the commission day"), it appears to the clerk of assize that the attendance of any jurors summoned to attend at the assizes will not be required by reason of there being no business to be transacted for which those jurors are required, he may, in manner provided by this section, cause notice to be sent by post to those jurors by or on behalf of the person who has summoned them dispensing with their attendance in pursuance of the summons, and any person so summoned as juror to whom such a notice is sent shall not be liable to any fine or penalty for failing to attend in pursuance of the summons.

(2) For the purpose of causing notice to be sent under this section, the clerk of assize may direct the sheriff, under-sheriff or other officer who has summoned the jurors to send the required notice, and that officer shall send the notice as so directed.

(3) Where the clerk of assize causes notices to be sent to jurors dispensing with their attendance, he shall at the same time send information thereof to all clerks to justices in the area for which the assizes are to be held, and those justices shall, after the receipt of that information, in committing any person for trial, act as if the assizes were not to be held:

Provided that the justices may, if they think fit, for the purpose of enabling any person who would have been committed for trial at any such assizes to have an early trial in case he is not admitted to bail, commit him for

trial at any other assizes or quarter sessions about to be held at any place or town convenient for the trial, and His Majesty may by Order in Council make such provisions as to the jurisdiction of the court, and the attendance, jurisdiction, authority and duty of sheriffs, gaolers, officers, jurors and persons, the use of any prison, the removal of prisoners, the alteration of any commissions, writs, precepts, indictments, recognizances, proceedings and documents, the transmission of recognizances, inquisitions and documents, and the costs of the prosecution and defence and the expenses of maintaining and removing prisoners, as seem necessary or expedient to carry into effect this provision, but—

(*a*) the costs and expenses of any prosecutors and witnesses shall be paid by the council of the county or borough who would have been liable to pay those costs and expenses if the person had been committed for trial in the ordinary course; and

(*b*) the council of the county or borough who would have paid the costs of the trial of the person, if he had been committed in the ordinary course, shall pay to the council of the county or borough by whom the costs of the assizes or quarter sessions to which he is committed under this provision are paid, such sum on account of his trial as may be agreed upon between the councils, or, in default of agreement, determined by the Secretary of State.

If the justices have already committed any person for trial at the assizes in respect of which notices have been sent under this section, they shall have power to alter the committal, and to make any alteration or extension of any recognizances which may appear necessary under the circumstances.

(4) Any warrant for arresting or detaining any person, and any recognizance to appear and give evidence, or to appear for trial, issued or taken in the case of a person charged with murder or manslaughter on a coroner's inquisition, shall, if the trial of the person charged cannot take place in the ordinary course owing to assizes to which the warrant or recognizances relate not being held by virtue of the provisions of this section,

continue in operation until the next assizes, or, if the person charged is committed to any other assizes by justices, such other assizes.

(5) Any person having by law a right to present a bill of indictment to a grand jury in a case where no person has been committed for trial, and proposing to do so at any assizes shall give notice of his intention to do so to the clerk of assize more than five days before the commission day.

(6) Where notices have been given in pursuance of this section dispensing with the attendance of all jurors at any assizes it shall not be necessary to hold the assizes in respect of which the notices have been given unless there is any business not requiring the attendance of jurors to be transacted by the court.

Clerks of assize.

79.—(1) Whenever any vacancy occurs in the office of clerk of assize the Treasury may, having regard to the nature of the duties and responsibility of the office, revise the salary attached to the office.

(2) A person shall not be appointed a clerk of assize unless he has, during a period of not less than three years, been either—

(*a*) a barrister-at-law in actual practice; or

(*b*) a solicitor of the Supreme Court in actual practice; or

(*c*) a subordinate officer of a clerk of assize on circuit;

and any appointment made in contravention of this subsection shall be void.

(3) Where any enactment authorises a clerk of assize to take any fee for any duty performed by him, he shall take the fee by stamps or otherwise and account for it and pay it over in such manner as the Treasury may direct, and a clerk of assize shall not take any fee for his own use.

(4) A clerk of assize shall not be entitled to any compensation in respect of the emoluments of his office in case any alteration is made in the duties thereof or his office is abolished by the authority of Parliament.

(5) A person who is employed by a clerk of assize and is paid any salary or allowance out of moneys provided by Parliament shall not be removed from his office or employment without the sanction of the Treasury.

(6) If any clerk of assize practises as a barrister at any assize within the circuit of which he is clerk of assize he shall be liable to forfeit ten pounds for each offence, one half to be paid to His Majesty and the other half to the party aggrieved.

Circuit officers.

80. The power of appointment to such offices connected with the circuits of the judges under commissions of assize, or otherwise, as formerly were in the appointment of the senior judge going on any circuit, and also the power of appointment to all subordinate offices, the salaries of which are paid out of moneys provided by Parliament and which are held under any circuit officer, shall be vested in the senior judge going on that circuit for the winter and summer assizes respectively:

Provided that the provisions contained in this Act with respect to the abolition, reduction of salary or alteration of the designation or duties of offices in the Supreme Court, and as to giving notice of any vacancy in any such office, shall apply to all offices, whether principal or subordinate, mentioned in this section.

Commissions not determined by demise of Crown.

81. A commission of assize shall not be determined by the demise of the Crown, and shall, unless superseded or otherwise determined, continue in force for six months after such demise.

Proceedings not discontinued by issue of new commission.

82. No proceeding, either civil or criminal, in any court of assize shall be discontinued by reason of the issue of any new commission of assize or of the altering of the names of or of the promotion to any dignity of any of the commissioners of assize, and the new commissioners may proceed in every behalf as if the old commission and commissioners had continued without alteration, and in particular where judgment against a person found guilty at the former assize has been respited, may pronounce judgment against that person.

Assizes to be held at least twice in every year.

83. Except as otherwise expressly provided in this Part of this Act, nothing in this Act shall affect the custom of holding separate assizes in and for each county twice a year.

PART IV.

GENERAL PROVISIONS AS TO TRIAL AND PROCEDURE.

District Registries.

Establishment of district registries and appointment of registrars.

84.—(1) His Majesty may by Order in Council from time to time direct that there shall be in such places as are specified in the Order district registries for districts to be defined in the Order, from which writs of summons for the commencement of actions in the High Court may be issued, and in which the proceedings herein-after mentioned may be taken and recorded.

(2) Any person being the registrar of a county court or being a solicitor of not less than seven years' standing shall be qualified for appointment as district registrar of the High Court.

(3) The Lord Chancellor may, if he thinks fit, appoint two persons to execute jointly the office of district registrar in any district registry, and may in any case where joint district registrars are appointed give directions with respect to the division between them of the duties of the office and may, as he thinks fit, on the death, resignation or removal of a joint district registrar, either appoint another person to be joint district registrar in the place of the person so dying, resigning or removed, or give directions that the continuing registrar shall act as sole registrar.

(4) On a vacancy occurring in the office of a district registrar, any person being a person qualified for appointment as district registrar may be appointed to act as provisional district registrar for such period not exceeding six months from the date on which the vacancy occurs as the Lord Chancellor may direct.

(5) The power to make appointments to the office of district registrar and provisional district registrar shall be vested in the Lord Chancellor.

(6) All acts authorised or required to be done by, to or before a district registrar may be done by, to or before a provisional district registrar appointed under this section, and a provisional district registrar shall receive in respect of the period during which he so acts remuneration on a scale not higher than the scale applicable in the case of the registrar of the district for which he is appointed to act.

(7) Every district registrar and provisional district registrar shall be an officer of the Supreme Court, and no person who is, or is acting as, the district registrar or the provisional district registrar of any district shall, either by himself or his partner, be directly or indirectly engaged as a solicitor or agent for a party to any proceeding whatsoever in the registry of that district.

Seals of district registries.

85.—(1) In every district registry there shall be used such seal as the Lord Chancellor from time to time directs.

(2) The seal of the district registry shall be impressed on every writ and other document issued out of or filed in that registry, and all writs and documents, and all exemplifications and copies thereof, purporting to be sealed with the seal of a district registry, shall be received in evidence in all parts of the United Kingdom without further proof.

Powers of district registrars.

86. District registrars shall have power to administer oaths and perform such other duties with respect to any proceedings in the High Court or in the Court of Appeal as may be prescribed by rules of court or by any special order of the court.

Power of court to remove proceedings from district registries.

87. Any party to an action commenced by the issue of a writ out of a district registry may at any time apply, in the prescribed manner, to the High Court or to a judge in chambers of the Division to which the action is assigned, to remove the proceedings from the district registry into the proper office of the High Court, and the court or judge may, if it seems fit, make an order granting the application, and the proceedings and such original documents, if any, as have been filed therein shall upon receipt of the order be transmitted by the district registrar to the proper office of the High Court, and the action shall thenceforth proceed in the same manner as if it had been originally commenced by a writ of summons issued out of the proper office in London.

Inquiries and Trials by Referees.

Reference for report.

88.—(1) Subject to rules of court and to any right to have particular cases tried with a jury, the Court or a judge may refer to an official or special referee for inquiry

or report any question arising in any cause or matter, other than a criminal proceeding by the Crown.

(2) The report of an official or special referee may be adopted wholly or partially by the Court or a judge, and if so adopted may be enforced as a judgment or order to the same effect.

Reference for trial.

89. In any cause or matter, other than a criminal proceeding by the Crown,—

(*a*) If all the parties interested who are not under disability consent; or

(*b*) If the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the Court or a judge conveniently be made before a jury or conducted by the Court through its other ordinary officers; or

(*c*) If the question in dispute consists wholly or in part of matters of account;

the Court or a judge may at any time order the whole cause or matter, or any question or issue of fact arising therein, to be tried before a special referee or arbitrator respectively agreed on by the parties, or before an official referee or officer of the Court.

Powers and remuneration of referees and arbitrators.

90.—(1) In all cases of reference to an official or special referee or arbitrator, the official or special referee or arbitrator shall be deemed to be an officer of the Court, and subject to rules of court shall have such authority, and conduct the reference in such manner, as the Court or a judge may direct.

(2) The report or award of an official or special referee or arbitrator on any reference shall, unless set aside by the Court or a judge, be equivalent to the verdict of a jury.

(3) The remuneration to be paid to a special referee or arbitrator to whom any matter is referred under an order of the Court or a judge shall be determined by the Court or a judge.

Court to have powers as in references by consent. 52 & 53 Vict. c. 49.

91. The Court or a judge shall, in relation to references, have all such powers as are conferred by the Arbitration Act, 1889, on the Court or a judge in relation to references by consent out of court.

Powers of Court of Appeal.

92. The Court of Appeal shall have all such powers as are conferred by the provisions of this Part of this Act on the Court or a judge in relation to references.

Power to order habeas corpus to issue.

93. The Court or a judge may order that a writ of habeas corpus ad testificandum shall issue to bring up a prisoner for examination before an official or special referee or arbitrator.

Statement of case pending arbitration.

94. A referee or arbitrator may at any stage of the proceedings under a reference, and shall, if so directed by the Court or a judge, state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference.

Power of Court to impose terms as to costs, &c.

95. An order made under the provisions of this Part of this Act relating to inquiries and trials by referees may be made on such terms as to costs or otherwise as the Court or a judge thinks fit.

Saving for Crown.

96. Nothing in the provisions of this Part of this Act relating to inquiries and trials by referees shall empower the Court or a judge to order any proceedings to which His Majesty or the Duke of Cornwall is a party, or any question or issue in any such proceedings, to be tried before any referee, arbitrator or officer without the consent of His Majesty or the Duke of Cornwall, as the case may be, or shall affect the law as to costs payable by the Crown.

Explanation of terms "the Court" and "reference."

97. In the provisions of this Part of this Act relating to inquiries and trials by referees, unless the context otherwise requires—

The expression "the Court" means the High Court;

The expression "reference" means a reference under an order made by the Court or a judge under the said provisions.

Assessors.

Trial with assessors.

98.—(1) In any cause or matter before the High Court or the Court of Appeal, other than a criminal proceeding by the Crown, the court may, if it thinks it expedient so to do, call in the aid of one or more assessors specially qualified, and try and hear the cause or matter wholly or partially with their assistance.

(2) The remuneration, if any, to be paid to an assessor shall be determined by the court.

Rules of Court.

99.—(1) Rules of court may be made under this Act for the following purposes :— Rules of court.

(*a*) For regulating and prescribing the procedure (including the method of pleading) and the practice to be followed in the Court of Appeal and the High Court respectively in all causes and matters whatsoever in or with respect to which those courts respectively have for the time being jurisdiction (including the procedure and practice to be followed in the offices of the Supreme Court and in district registries), and any matters incidental to or relating to any such procedure or practice, including (but without prejudice to the generality of the foregoing provision) the manner in which, and the time within which, any applications which under this or any other Act are to be made to the Court of Appeal or to the High Court shall be made :

(*b*) For regulating and prescribing the procedure on appeals from any court or person to the Court of Appeal or the High Court, and the procedure in connection with the transfer of proceedings from any inferior court to the High Court or from the High Court to an inferior court :

(*c*) For regulating the sittings of the Court of Appeal and the High Court, of the divisional courts of the High Court, and of the judges of the High Court whether sitting in court or in chambers :

(*d*) For prescribing what part of the business which may be transacted and of the jurisdiction which may be exercised by judges of the High Court in chambers may be transacted or exercised by masters of the Supreme Court, registrars of the Probate Division, or other officers of the Supreme Court :

(*e*) For regulating any matters relating to the costs of proceedings in the Court of Appeal or the High Court:

(*f*) For regulating and prescribing the procedure and practice to be followed in the Court of Appeal or the High Court in cases in which the procedure or practice is regulated by enactments in force immediately before the commencement of this Act or by any provisions of this Act re-enacting any such enactments (including so much of any of the Acts set out in the First Schedule to this Act as is specified in the third column of that Schedule):

(*g*) For repealing any enactments which relate to matters with respect to which rules are made under this section:

(*h*) For prescribing in what cases trials in the High Court are to be with a jury and in what cases they are to be without a jury:

(*i*) For regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings or on any application in connection with or at any stage of any proceedings:

(*j*) For regulating or making provision with respect to any other matters which were regulated or with respect to which provision was made by the rules of the Supreme Court in force on the thirtieth day of September, nineteen hundred and twenty-five, or by any rules or regulations so in force with respect to practice and procedure in matrimonial causes and matters or with respect to applications and proceedings relating to legitimacy declarations.

(2) No rule of the Supreme Court which may involve an increase of expenditure out of public funds shall be made except with the concurrence of the Treasury, but the validity of a rule of the Supreme Court shall not in any proceedings in any court be called in question either by the court or by any party to the proceedings on the ground only that it was a rule to which the concurrence of the Treasury was necessary and that the Treasury did not concur or are not expressed to have concurred in the making thereof.

(3) Rules of court made under this section shall apply to all proceedings by or against the Crown.

(4) Rules of court may be made by the Lord Chancellor together with any four or more of the following persons, namely, the Lord Chief Justice, the Master of the Rolls, the President of the Probate Division, and four other judges of the Supreme Court, two practising barristers being members of the General Council of the Bar, and two practising solicitors of whom one shall be a member of the Council of the Law Society and the other a member of the Law Society and also of a provincial Law Society.

The four other judges and the barristers and solicitors to act as aforesaid shall be appointed by the Lord Chancellor in writing under his hand and shall hold office for the time specified in the appointment.

(5) Rules of court made under this section shall be laid before Parliament, but section one of the Rules Publication Act, 1893 (which requires notice to be given of a proposal to make statutory rules), shall not apply to rules so made. 56 & 57 Vict. c. 66.

(6) Nothing in this section shall affect the power conferred by section two hundred and thirty-seven of the Companies (Consolidation) Act, 1908, or by section one hundred and thirty-two of the Bankruptcy Act, 1914, of making general rules for carrying into effect the objects of those Acts respectively, or the power conferred on the President of the Probate Division by the next following section of this Act of making probate rules and orders, and the power to make rules of court under this section shall not extend to the matters with respect to which rules or orders may be made by virtue of the enactments mentioned in this subsection. 8 Edw. 7. c. 69. 4 & 5 Geo. 5. c. 59.

Rules of court with respect to procedure in non-contentious probate business.

100.—(1) The President of the Probate Division may, with the concurrence of the Lord Chancellor and the Lord Chief Justice or any judge of the High Court named by the Lord Chief Justice on his behalf, make rules and orders (in this Act referred to as "probate rules and orders") for regulating the procedure and practice of the High Court with respect to non-contentious or common form probate business.

(2) Every rule or order made under this section shall be laid before Parliament.

Evidence, Juries, Foreign Law, and Saving.

Act not to affect rules of evidence or juries.

101. Nothing in this Act and, subject as hereinafter in this section expressly provided, nothing in rules of court made under this Act, shall affect the mode of giving evidence by the oral examination of witnesses in trials with a jury, or the rules of evidence, or the law relating to jurymen or juries:

Provided that nothing in this section shall—

(*a*) prejudice the operation of any rules of court made in pursuance of the express power conferred by this Act to make rules of court for regulating the means by which particular facts may be proved and the mode in which evidence thereof may be given; or

(*b*) affect the power of the court for special reasons to allow depositions or affidavits to be read.

Questions of foreign law to be decided by judge.

102. Where for the purpose of disposing of any action or other matter which is being tried in the High Court by a judge with a jury it is necessary to ascertain the law of any other country which is applicable to the facts of the case, any question as to the effect of the evidence given with respect to that law shall, instead of being submitted to the jury, be decided by the judge alone.

Saving for former procedure.

103.—(1) Save as is otherwise provided by this Act or by rules of court, all forms and methods of procedure which, under or by virtue of any law, custom, general order or rules whatsoever, were formerly in force in any of the courts the jurisdiction of which is vested in the High Court or the Court of Appeal respectively, and which are not inconsistent with this Act or with rules of court, may continue to be used in the High Court and the Court of Appeal respectively in the like cases and for the like purposes as those in and for which they would have been applicable in the former respective courts.

(2) Subject to rules of court, the practice and procedure in all criminal causes and matters whatsoever in the High Court shall be the same as the practice and procedure in force at the commencement of this Act in relation to similar causes and matters.

PART V.

OFFICERS AND OFFICES.

Central Office.

Central office of Supreme Court.

104.—(1) There shall be a central office of the Supreme Court comprising such offices as were immediately before the commencement of this Act comprised in, and such officers and persons (including the officers and persons employed in the Court of Criminal Appeal) as then were officers of, the central office of the Supreme Court constituted under the Act of 1873, together with such other offices of the Supreme Court and such other officers and persons employed in the Supreme Court, or any offices thereof, as may from time to time be amalgamated with or transferred to the central office by rules of court.

(2) The central office shall be under the control and superintendence of the masters of the Supreme Court (King's Bench Division).

Business of central office.

105.—(1) The business to be performed in the central office shall, subject to any order of the Lord Chancellor, comprise all such business as was immediately before the commencement of this Act performed in the central office then existing, together with such other business as is performed in any offices which are at any time after the commencement of this Act amalgamated with or transferred to the central office, and shall be distributed among the several officers of the central office in the prescribed manner.

(2) The several officers of the central office shall be interchangeable one with another, and shall be capable of performing and liable to perform the duties of each other in any department of the office, and generally shall perform such duties and have such powers in relation to the business of the Supreme Court as the Lord Chancellor may by order direct.

(3) Any order made under this section may at any time be revoked, varied or amended by a subsequent order so made.

Appointment and removal of officers.

106.—(1) The right of filling any vacancy in the office of master of the Supreme Court (King's Bench Division) or in any clerkship in the central office, shall (subject as provided in the next following subsection) be vested in the Lord Chancellor, the Lord Chief Justice and the Master of the Rolls, in rotation, or in such order or manner as they by agreement among themselves may determine.

(2) The right of filling any vacancy in the office of King's coroner and attorney and master in the Crown Office shall be vested in the Lord Chief Justice, and the person appointed to that office shall by virtue of his appointment be a master of the Supreme Court (King's Bench Division).

(3) Subject as aforesaid, the right of filling any vacancy in, and of making any new appointment in or for the purposes of, the central office shall be vested in the Lord Chancellor subject to the concurrence of the Treasury.

Principal Probate Registry and District Probate Registries.

Principal probate registry.

107. The principal registry of the High Court for the purpose of the exercise of the probate jurisdiction (in this Act referred to as "the principal probate registry") shall be at such place in the County of London as His Majesty may by Order in Council from time to time appoint.

District probate registries.

108.—(1) For the purposes of this Act there shall be district probate registries which shall be attached to and under the control of the High Court.

(2) Subject as hereinafter provided, district probate registries shall be established at the places mentioned in, and otherwise in accordance with, the Scheme set out in the Second Schedule to this Act:

Provided that a district probate registry to be established at a place at which no such registry was established by the Court of Probate Act, 1857, shall be established at such date as the President of the Probate Division may, with the concurrence of the Lord Chancellor, determine, and no district probate registry

which was established by the said Act and is in existence at the commencement of this Act shall be discontinued until such date as may be so determined.

(3) The President of the Probate Division may from time to time, with the concurrence of the Lord Chancellor and the Treasury, by order modify or vary the said Second Schedule:

Provided that before any order is made under this subsection a draft thereof shall be laid before both Houses of Parliament, and the order shall not be made unless both Houses by resolution approve the draft either without modification or addition or with modifications or additions to which both Houses agree, and on the draft being so approved the order may be made in the form of the draft as approved.

(4) His Majesty may by Order in Council make such adaptations of any enactments as may appear to Him to be rendered necessary or expedient by reason of the passing of section seventeen of the Administration of Justice Act, 1925, or of anything done under the provisions of this section. 15 & 16 Geo. 5. c. 28.

(5) Any order made by the Lord Chancellor or the President of the Probate Division under the foregoing provisions of this section may be revoked, varied or amended by a subsequent order so made.

Clerks of district probate registries.

109.—(1) The President of the Probate Division may from time to time—

(*a*) with the sanction of the Treasury give directions as to the number of clerks to be employed in the several district probate registries and as to the amounts of their respective salaries; and

(*b*) prescribe the qualifications to be possessed by any person appointed a clerk in a district probate registry; and

(*c*) regulate the establishment of the district probate registries with respect to the duties to be performed therein.

(2) The clerks in a district probate registry shall be appointed by the district probate registrar with the approval of the President of the Probate Division and

shall be removable by the President or by the district probate registrar with the approval of the President.

General provisions as to Officers of the Supreme Court.

Officers to be attached to Supreme Court.

110.—(1) Such of the officers attached to the Supreme Court as may be thought necessary or proper for the performance of any special duties in connection either with the Supreme Court generally, or with the High Court or the Court of Appeal, or any one of the Divisions, or any particular judge of either of the said courts, may by the Lord Chancellor, with the concurrence of the Lord Chief Justice and with the sanction of the Treasury, be attached to the said respective courts, Divisions and judges accordingly.

(2) The authority of the Supreme Court over its officers may be exercised in and by the High Court and the Court of Appeal respectively, and also in the case of officers attached to any Division by the president of that Division with respect to any duties to be discharged by them respectively.

Determination of numbers of officers.

111. The Lord Chancellor may, with the concurrence of the Treasury, from time to time determine as respects any class of officers in the Supreme Court the number of persons who may be appointed to be officers of that class.

Classification of clerks.

112.—(1) The clerks employed in the offices of the Supreme Court shall be classified in such manner as the Lord Chancellor, with the concurrence of the Treasury, may by order direct, and shall be employed in such capacities, as the Lord Chancellor may by order direct.

For the purposes of this subsection, the expression "the offices of the Supreme Court" shall include the department of the official solicitor to the Supreme Court, the bankruptcy department and the companies (winding-up) department, but shall not include the principal probate registry.

(2) Any order made under this section may at any time be revoked, varied or amended by a subsequent order so made.

Power to abolish offices.

113. The Lord Chancellor may, with the approval of the Lord Chief Justice, the Master of the Rolls and the President of the Probate Division, as respects offices to which they have respectively a power of appointment, abolish any office in the Supreme Court which appears to him to be unnecessary.

Appointment of officers.

114.—(1) All officers assigned to perform duties with respect to the Supreme Court generally, or attached to the High Court or the Court of Appeal, shall be appointed by the Lord Chancellor.

(2) All officers attached to the Chancery Division who were formerly appointed by the Master of the Rolls, shall continue, while so attached, to be appointed by the Master of the Rolls.

(3) All other officers attached to any Division shall be appointed by the president of that Division.

(4) All officers attached to any judge shall be appointed by the judge to whom they are attached.

(5) The provisions of this section shall have effect subject to any provisions contained in this Part of this Act with respect to the appointing of any particular officers or the filling of vacancies in any particular offices.

Tenure of officers of Supreme Court.

115.—(1) Any officer of the Supreme Court who by virtue of the provisions of subsection (1) of section one hundred and twenty-eight of this Act is required to vacate office at the end of the completed year of service in the course of which he attains the age of seventy-two years shall, subject to the provisions of the said subsection and subject as hereinafter provided, hold office during good behaviour:

Provided that the power to remove any such person from his office on account of misbehaviour shall be exercisable by the Lord Chancellor, and the Lord Chancellor shall have power to remove any such person from his office on account of inability to perform the duties of his office.

(2) Every officer of the Supreme Court, not being an officer to whom subsection (1) of this section applies, shall hold office during His Majesty's pleasure:

Provided that nothing in this subsection shall affect the tenure of any officer appointed before the commencement of the Administration of Justice Act, 1925.

(3) In the application of this section to registrars of the Probate Division, the President of the Probate Division shall be substituted for the Lord Chancellor.

Appointment of deputies for Supreme Court officers.

116.—(1) Subject to the provisions of this section, where an officer of the Supreme Court is absent from illness or other reasonable cause, he may, with the approval of the Lord Chancellor, appoint a deputy, and if being so absent he fails to make such an appointment, the Lord Chancellor may appoint a deputy.

(2) Every deputy appointed under the foregoing provisions of this section shall have all the powers and authorities of the officer for whom he is appointed to act.

(3) A person shall not be qualified to be appointed under the foregoing provisions of this section to act as a deputy in any office unless he is qualified for appointment to that office.

(4) If any officer appointed before the commencement of this Act by virtue of the Court of Probate Act, 1857, or the Court of Probate Act, 1858, or appointed after the commencement of this Act by virtue of the corresponding provisions of this Act, becomes by reason of illness or other infirmity temporarily incapable of performing the duties of his office, the President of the Probate Division may appoint some other fit person to discharge his duties for any period not exceeding six months at one time, and the person so appointed shall, during that period, have the same powers as the officer in whose place he is appointed, and shall be paid by that officer such sum by way of salary or allowance as may be agreed on between them or be fixed by the President.

The President may in his discretion grant to any officer appointed under the said Acts or under the said provisions of this Act, leave of absence for any period not exceeding two months in any year, and may make provision for the discharge of the duties of that officer during his absence.

Notice of vacancies in offices.

117. On the occurrence of any vacancy in the office of any officer of the Supreme Court, notice thereof shall be forthwith given to the Lord Chancellor and also

to the Treasury by the senior continuing or surviving officer of the department in which the vacancy occurs, and no appointment shall be made to fill the vacancy within the period of one month next after the date of the notice without the assent of the Lord Chancellor, given with the concurrence of the Treasury, and the Lord Chancellor may, if it be necessary, make provision in such manner as he thinks fit for the temporary discharge in the meantime of the duties of the office.

Salaries and pensions of officers.

118.—(1) The salaries of the several officers of the Supreme Court shall be of such amounts as the Lord Chancellor, with the concurrence of the Treasury, from time to time determines, and (without prejudice to the provisions contained in this Part of this Act with respect to the pensions of persons holding any of the offices specified in Part I. of the Third Schedule to this Act) every such officer shall be deemed, for the purposes of salary and pension, to be a permanent civil servant of the State.

(2) All salaries, pensions and allowances payable to officers of the Supreme Court shall be paid out of moneys provided by Parliament, and shall be deemed to accrue from day to day but shall be payable on such days as the Treasury may from time to time appoint.

Conditions of obtaining pensions and salaries. 42 & 43 Vict. c. 78. 47 & 48 Vict. c. 61.

119.—(1) An officer of the Supreme Court shall not, if appointed since the commencement of the Supreme Court of Judicature (Officers) Act, 1879, be entitled to a pension under this Part of this Act, or if appointed since the commencement of the Supreme Court of Judicature Act, 1884, be entitled to a salary under this Part of this Act, unless he has been admitted to his office with a certificate from the Civil Service Commissioners:

Provided that—

(*a*) The provisions of this section shall not apply in the case of a person appointed to any of the offices specified in Part I. of the Third Schedule to this Act; and

(*b*) The Lord Chancellor may from time to time, with the concurrence of the Treasury, make, revoke and alter orders declaring that this section shall not apply to any office or class of offices specified in the order, and if any such order is made the application of this section shall be limited accordingly.

(2) Before any person is appointed to any of the offices specified in Part I. of the Third Schedule to this Act the person making the appointment shall take steps to satisfy himself that the state of health of the person proposed to be appointed is satisfactory.

Officers not to practise as barristers or solicitors.

120. An officer of the Supreme Court shall not either directly or indirectly practise as a barrister or solicitor or as an agent of a solicitor in any court in the United Kingdom:

Provided that this section shall not apply to district registrars of the High Court or district probate registrars, or to the official solicitor to the Supreme Court acting in his capacity as such.

Provisions as to particular Officers.

Personal officers of judges.

121.—(1) There shall be attached to the Lord Chief Justice and the Master of the Rolls respectively, a secretary, whose salary shall be five hundred pounds per annum, and a clerk, whose salary shall be four hundred pounds per annum, and to each of the other judges of the High Court and to each of the Lords Justices of Appeal, a clerk, whose salary shall be four hundred pounds per annum.

(2) An officer so attached shall—

(*a*) be attached to the person of the judge as such and shall be appointed and removable by him at his pleasure; and

(*b*) be liable, if required, while in attendance on the judge, to discharge without further remuneration the duties of crier in court or on circuit, or of usher or train bearer.

Additional duties of senior master.

122. The senior master of the Supreme Court (King's Bench Division) shall hold and perform the duties of the offices of the King's Remembrancer, registrar of certificates of acknowledgments of deeds by married women and registrar of judgments, with such additional salary in respect of the office of King's Remembrancer as the Lord Chancellor, with the concurrence of the Treasury, may determine.

Registrars and clerks to registrars in

123.—(1) The registrars of the Chancery Division (in this section referred to as "the registrars") and the clerks to the registrars shall be appointed by the Lord

Chancery Division.

Chancellor, and the number of the registrars and of the clerks respectively shall be such as the Lord Chancellor, with the approval of the Treasury, may fix.

(2) The Lord Chancellor shall appoint one of the registrars to be chief registrar, and the chief registrar shall exercise as respects the other registrars and the clerks to the registrars such duties and functions as the Lord Chancellor may from time to time assign to him.

(3) The clerks to the registrars shall retire from office at such age as the Lord Chancellor, with the consent of the Treasury, may fix.

(4) Any person who was on the nineteenth day of August, nineteen hundred and twenty-one, exercising functions as a registrar or as a clerk to the registrars shall be deemed to have been duly appointed in accordance with the provisions of this section to the office of registrar or clerk, as the case may be, but shall be entitled to reckon as a period of service for the purpose of the Superannuation Acts, 1834 to 1919, any period before that date during which he exercised such functions.

Office of Master in Lunacy.

124. The power to appoint a person to be a clerk in the office of the master in lunacy shall be vested in and exercisable by the Lord Chancellor, and that office shall be included among the offices of the Supreme Court.

Official referees.

125.—(1) There shall be attached to the Supreme Court permanent officers, to be called official referees, who shall report on such questions and try such causes, matters, questions and issues as may be referred to them for report or trial respectively under the provisions of Part IV. of this Act.

(2) The number of the official referees, and the tenure of their office, shall be determined by the Lord Chancellor, with the concurrence of the Lord Chief Justice and the President of the Probate Division, and with the sanction of the Treasury.

(3) The official referees shall perform the duties entrusted to them in such places, whether in London or in the country, as may from time to time be directed or authorised by any order of the High Court or of the Court of Appeal.

(4) All proper and reasonable travelling expenses incurred by the official referees in the discharge of their

duties shall be defrayed out of moneys provided by Parliament.

Qualifications.

126.—(1) A person shall not be qualified for appointment to any of the offices in the Supreme Court specified in the first column of the Fourth Schedule to this Act unless he is a person of the description specified in the second column of that Schedule in respect of that office:

Provided that notwithstanding anything in this section any person who held any office in the Supreme Court at the commencement of the Administration of Justice Act, 1925, shall be qualified for appointment to any office to which he might have been appointed if that Act had not passed.

(2) The registrars of the Chancery Division shall be appointed from among the persons who at the time of the appointment are clerks to the registrars, and a person shall not be qualified to be appointed as clerk to the registrars unless he is a solicitor of the Supreme Court of not less than two years' standing.

(3) A person shall not be qualified to be appointed a probate registrar or district probate registrar unless he is a barrister or solicitor, or a clerk who has served five years in the principal probate registry.

(4) A person shall not be qualified to be appointed an admiralty registrar or assistant registrar unless he is a barrister or solicitor of ten years' standing.

Compulsory retirement of certain officers.

127.—(1) A person holding any of the offices in the Supreme Court specified in Part I. or Part II. of the Third Schedule to this Act shall vacate his office at the end of the completed year of service in the course of which he attains the age of seventy-two years:

Provided that, where the Lord Chancellor considers it desirable in the public interest to retain any such person in the public service after he attains the age of seventy-two years, he may, with the approval of the Treasury, authorise his continuance in the service up to such later age, not exceeding seventy-five years, as he thinks fit.

(2) The provisions of this section shall not apply to a person holding any of the offices specified in Part I. of the said Third Schedule if he was appointed to that office before the first day of July, nineteen hundred and

fifteen, and did not give notice in accordance with the provisions of section three of the Supreme Court Officers (Retirement, Pensions, &c.) Act, 1921, of his desire to accept the provisions contained in that Act in respect of the pensions of the persons holding the offices aforesaid in lieu of the provisions in respect of pensions which would have applied if that Act had not passed, or to a person holding either of the offices specified in Part II. of the said Third Schedule if he was appointed to that office before the date aforesaid. 11&12Geo.5. c. 56.

Pensions of certain officers.

128.—(1) The provisions of the Superannuation Acts, 1834 to 1919, shall apply to persons holding any of the offices specified in Part I. of the Third Schedule to this Act, subject to the following modifications:—

(*a*) On the retirement of a person from any of the offices aforesaid there may be granted to him a superannuation allowance calculated in accordance with the provisions of Part III. of the said Third Schedule instead of a superannuation allowance calculated in accordance with the provisions of the Superannuation Acts, 1834 to 1919:

(*b*) Section two of the Superannuation Act, 1909 (which authorises the grant of a gratuity in case of death), section three of that Act (which provides for the application of the Act to existing male civil servants), and subsection (2) of section six of that Act (which relates to compensation for abolition of office), and section two of the Superannuation Act, 1914 (which amends subsection (1) of section two of the Superannuation Act, 1909), shall not apply: 9 Edw. 7. c. 10. 4 & 5 Geo. 5. c. 86.

(*c*) Section ten of the Superannuation Act, 1859 (which prohibits the grant of superannuation allowance to a person under the age of sixty years except upon evidence of infirmity) shall not apply, but it shall not be lawful to grant any superannuation allowance under the provisions of this section to any person who is under the age of seventy-two years, unless upon a medical certificate to the satisfaction of the Treasury to the effect that he is incapable from infirmity of mind or body of discharging the 22 Vict. c. 26.

duties of his office and that the infirmity is likely to be permanent, or unless he has served fifteen years in one or more of the offices specified in Part I. of the said Third Schedule and has attained the age of sixty-five years:

Provided that—

(i) The foregoing provisions of this section shall not apply to any person to whom, if the Supreme Court Officers (Retirement, Pensions, &c.) Act, 1921, had not been repealed by this Act, section two of that Act would not have applied or to any person who, having been appointed to one of the offices aforesaid was at the time of his appointment a civil servant within the meaning of the Superannuation Act, 1887, unless he gives notice in such form and within such period as may be prescribed by the Lord Chancellor, of his desire to accept those provisions in lieu of the general provisions of the Superannuation Acts, 1834 to 1919:

50 & 51 Vict. c. 67.

(ii) In the case of any person who in pursuance of the provisions of proviso (ii) to subsection (1) of section two of the Supreme Court Officers (Retirement, Pensions, &c.) Act, 1921, gave notice that he desired to accept the provisions of that section with the substitution for the allowances under the Second Schedule to that Act of the allowances and other benefits set out in the Third Schedule to that Act, this section shall have effect as if references to Part IV. of the Third Schedule to this Act were substituted for references to Part III. of that Schedule.

(2) For the purpose of computing any allowance or benefit under Part III. or Part IV. of the Third Schedule to this Act, no account shall be taken of any years of service in any office other than an office specified in Part I. of that Schedule.

(3) The provisions of this section shall not apply to a person holding any of the offices specified in Part I. of the said Third Schedule if he was appointed to that office before the first day of July, nineteen hundred and fifteen, and did not give notice in accordance with

the provisions of section three of the Supreme Court Officers (Retirement, Pensions, &c.) Act, 1921, of his desire to accept those provisions in lieu of the provisions in respect of pensions which would have applied to him if that Act had not passed.

Powers and duties of official solicitor.

129.—(1) Where under or by virtue of any order, grant or appointment, any powers and duties have been or are hereafter conferred or imposed on the official solicitor to the Supreme Court, then, unless and until the Supreme Court or a judge thereof, or in matters and proceedings in lunacy a judge or master in lunacy, otherwise directs in any particular case, those powers may be exercised and those duties shall be performed by the holder of the office for the time being, and no further order or appointment shall be necessary by reason only of the person on whom the powers and duties were conferred or imposed dying or ceasing to hold office.

(2) Any bond entered into by the official solicitor as such in connection with any grant of administration shall be binding on the holder of the office for the time being, and any property vested in the official solicitor as such shall, on his dying or ceasing to hold office, without any conveyance, assignment or transfer, become vested in his successor in like manner as it was vested in him.

Appointments to keep order, &c. in Royal Courts of Justice.

130.—(1) The Lord Chancellor may from time to time, with the concurrence of the Treasury, make regulations with respect to—

(*a*) the appointment, removal, payment and duties of persons to keep order in the Royal Courts of Justice;

(*b*) the appointment, removal, payment and duties of persons charged with the care and cleaning of the Royal Courts of Justice; and

(*c*) any other matters necessary or incidental to the use or management of the Royal Courts of Justice.

(2) Any remuneration payable under this section shall be paid out of moneys provided by Parliament.

Miscellaneous.

Patronage not other-

131. Subject to the provisions of this Act, any rights of patronage and other rights or powers incident to any

wise provided for.

court or to the office of any judge of any court whose jurisdiction is now vested in the High Court or the Court of Appeal, in respect of which rights of patronage or other rights or powers no provision is made by this Act, shall be exercised in such manner as His Majesty may by Sign Manual direct.

Construction of enactments, &c., referring to abolished officers or offices. 42 & 43 Vict. c. 78.

132. Any enactment or document referring to an officer or office abolished by the Supreme Court of Judicature (Officers) Act, 1879, shall, as far as it continues applicable, be construed as referring to the officer or office substituted by that Act, and rules of court may determine what officer or office is so substituted.

PART VI.

FUNDS IN COURT.

Pay office of Supreme Court.

133.—(1) There shall be an Accountant-General of, and an accounting department for, the Supreme Court.

(2) The Clerk of the Crown shall be the Accountant-General of the Supreme Court (in this Part of this Act referred to as "the Accountant-General").

(3) The office of the Accountant-General shall be an office of the Supreme Court.

(4) All funds transferred or paid into or deposited in court, to the credit of any cause, matter or account in any Division, shall be vested in the Accountant-General on behalf of the Supreme Court, and shall be subject to the provisions of this Part of this Act and to any rules made under this Part of this Act (in this Part of this Act referred to as "the rules.")

(5) The Accountant-General may do any act, sign or execute any instrument, and exercise any authority required or authorised to be done, signed, executed or exercised by him for the purposes of this Part of this Act or of the rules, by a deputy appointed by him in writing under his hand.

(6) References to the Paymaster-General in any rules made under or for the purposes of the Court of Chancery (Funds) Act, 1872, or any Act amending that Act, before the commencement of this Act shall be construed as references to the Accountant-General.

Liability of Consolidated Fund for default of Accountant.

134.—(1) The Consolidated Fund shall be liable to make good to the suitors of the High Court all funds in court.

(2) If the Lord Chancellor, whether on a representation made to him by any suitor or without any such representation, certifies to the Treasury in writing that the Accountant-General has failed to pay any money in court, or transfer or deliver any securities in court, required by any order of the court to be paid, transferred or delivered from his account, or has been guilty of any default with respect to any such money or securities, the Treasury shall cause to be paid out of the Consolidated Fund or the growing produce thereof into the Bank to the credit of the Accountant-General for and on behalf of the Supreme Court, such sum as may be certified by the Lord Chancellor in writing to be required for the purpose of paying the money so required to be paid, or of replacing the securities so required to be transferred or delivered or of making good such default.

Construction of Acts, &c., referring to Accountant-General.

135. All Acts, all rules and orders made in pursuance of any Act, all orders of the Court of Chancery, and all instruments and proceedings of every description referring to the Accountant-General of the Court of Chancery or Court of Exchequer, shall, subject to the provisions of this Part of this Act and of the rules, be construed and have effect as if the Accountant-General were therein referred to in place of the Accountant-General of the Court of Chancery or Court of Exchequer, so however that all money and securities shall be paid, transferred or deposited to the credit or account of the Accountant-General for and on behalf of the Supreme Court:

Provided that nothing in this section shall affect the King's Remembrancer, or the performance by him of any duties formerly performed by the Accountant-General of the Court of Exchequer, or apply to any Act, rule, order, instrument or proceeding relating to any such duties.

Pay Office for Supreme Court.

136. The Treasury shall cause the Accountant-General to keep in or near the Royal Courts of Justice an office for the purpose of carrying on the business of the Accountant-General under this Part of this Act.

Vesting of property in Accountant.

137. All funds in court in pursuance of this Part of this Act shall vest in the Accountant-General for and on behalf of the Supreme Court without any conveyance, assignment or transfer, notwithstanding the death or removal from office of the person who is Accountant-General, and shall be held by him in trust to attend the orders of the court and subject to the rules, and all acts done by the Accountant-General with reference to any such funds in pursuance of an order of the court shall be valid and effectual.

Transfer of securities and receipt of dividends.

138.—(1) All securities transferred, standing or deposited into, in or to the account of the Accountant-General in pursuance of this Part of this Act, shall be held by him in trust in the several causes and matters in which those securities are transferred, standing or deposited respectively, and shall not be transferred, sold or delivered out except in pursuance of an order of the court.

(2) The rules may determine what evidence of an order of the court and of the directions contained in the order shall be necessary and sufficient for authorising the Bank or any other person to transfer on sale or otherwise or deliver out any securities or other things standing in the books of or deposited with the Bank or that person to the credit or account of the Accountant-General, and the securities or things so directed to be transferred or delivered out shall be transferred or delivered out accordingly on behalf of the Accountant-General by some officer of the Bank or that person.

(3) The Bank shall, by one of their cashiers or some other proper officer, receive all dividends accruing due on all securities standing to the account of the Accountant-General for and on behalf of the Supreme Court of which a certificate has been sent to them by him, and shall also receive any principal money payable in respect of any such securities, and the said certificate shall be a sufficient authority to the Bank to receive the dividends and principal money.

(4) Any receipt given by the Bank or by any cashier or other proper officer of the Bank for any dividends on any securities standing to the account of the Accountant-General under this Part of this Act, or any

principal money payable in respect of any such securities, shall be a good discharge for those dividends or that money.

(5) The Bank shall place all money received by them in pursuance of this section to the credit of the Accountant-General for and on behalf of the Supreme Court.

Application of s. 60 of 45 & 46 Vict. c. 61 to cheques, &c. of Accountant.

139. Section sixty of the Bills of Exchange Act, 1882 (which relates to the indorsement of drafts or orders drawn upon bankers for the payment of money), shall extend to any document issued by the Accountant-General in pursuance of this Part of this Act which authorises the payment of money.

Indemnity to Bank.

140. Nothing in this Part of this Act shall be deemed to require the Bank to keep the account of the Accountant-General for and on behalf of the Supreme Court causewise, and the Bank are hereby indemnified for all acts and things done or permitted to be done in pursuance of this Part of this Act or of the rules, or of any order of the court made or purporting to be made in pursuance of this Part of this Act or of any such rule, or done or permitted to be done in pursuance of any certificate signed and countersigned as directed by this Part of this Act or the rules, and no such acts or things respectively shall be questioned in any court to the detriment of the Bank.

Establishment of suitors' deposit account.

35 & 36 Vict. c. 44.

141.—(1) Save as otherwise provided by the rules, all money in court shall, subject to the provisions of this Part of this Act and of the rules, be placed on deposit without, in the case of money paid into court after the commencement of the Court of Chancery (Funds) Act, 1872, any application or request for that purpose, and when so placed on deposit shall bear interest at the rate of two per cent. per annum together with any income tax chargeable thereon.

(2) Any money which may at any time be standing to the credit of the Accountant-General for and on behalf of the Supreme Court beyond the amount which the Accountant-General considers to be required for meeting current demands shall be placed in the hands of the National Debt Commissioners, who shall pay to the credit of the Accountant-General for and on behalf of the Supreme Court such sum as, with such money as is at

the time standing to his credit, may be certified by him to be required to meet current demands, and the Consolidated Fund shall be liable to make good all money so placed in the hands of the Commissioners and the interest payable on sums placed on deposit, in like manner as it is liable to make good money in court.

Saving for investments made under order of court.

142. Any money in court which under the rules or under rules of court or under an order of the court is required to be laid out in any particular investment shall, subject to the rules, be so laid out notwithstanding anything in this Part of this Act.

Validity of payments, &c. pursuant to rules of court.

143. All acts done by the Accountant-General with reference to funds in court pursuant to and in accordance with rules of court shall be as valid and effectual as if they had been done in pursuance of an order of the court.

Remittances by post.

144. Where by the rules or any regulations of the Treasury the Accountant-General is authorised to make payments of money to persons entitled thereto upon their request by transmitting to them by post crossed cheques or other documents intended to enable them to obtain payment of the sums expressed therein, the posting of a letter containing the cheque or document and addressed to the person entitled thereto at the address given by him in his request shall, as respects the liability of the Accountant-General and of the Consolidated Fund respectively, be equivalent to the delivery of the cheque or document to that person himself.

Application of money in hands of National Debt Commissioners.

145.—(1) The National Debt Commissioners shall, subject to the directions of the Treasury, from time to time invest all money placed in their hands in pursuance of this Part of this Act in Government securities, and shall out of the dividends on the securities purchased with that money and on the securities, if any, purchased with the accumulation of those dividends, pay the sums payable by them under this Part of this Act, and invest any residue thereof in Government securities, and may from time to time change any such securities into Government securities of another description of equivalent value.

(2) If at any time the money in the hands of the National Debt Commissioners under this Part of this Act is insufficient to pay the amount payable by them in pursuance of this Part of this Act, the Treasury shall

either direct the Commissioners to realise a sufficient portion of the securities so purchased as aforesaid and apply the proceeds of such realisation in paying the amount so payable by them, or cause the required sum to be issued to the Commissioners out of any money applicable to the sinking fund, or out of the Consolidated Fund or the growing produce thereof.

Power to make rules.

146.—(1) The Lord Chancellor, with the concurrence of the Treasury, may make rules for carrying this Part of this Act into effect, and regulating the deposit, payment, delivery and transfer in, into and out of court of money and securities which belong to suitors, or are otherwise capable of being deposited in or paid or transferred into court, or in or into the Bank with the privity of the Accountant-General, or are under the custody of the court, and the evidence of such deposit, payment, delivery or transfer, and the investment of and other dealing with money and securities in court in pursuance of the orders of the court, and the execution of the orders of the court, and the powers and duties of the Accountant-General with reference to such money and securities, and in particular for:—

(*a*) Regulating the mode in which the Accountant-General is to deal with money and securities in pursuance of the orders of the court, and the mode in which effect is to be given to an order of the court which is to be executed by or through the office of the Accountant-General, and generally the arrangements between that office and the court and the officers thereof, and the certificates and information to be given by the Accountant-General with reference to the business of the court:

(*b*) Regulating the deposit, payment, sale, transfer and delivery with, to and by the Accountant-General of the funds, and the proceedings, evidence and duties of persons in relation thereto:

(*c*) Determining the mode of ascertaining the value of Government securities transferred to the National Debt Commissioners, or otherwise ordered to be dealt with by the Accountant-General:

(*d*) Regulating the investment in securities of money in court and the conversion into money of securities in court, and the transfer to the National Debt Commissioners of Government securities ordered by the court to be sold or converted into cash, and the transfer by the Commissioners to the Accountant-General for and on behalf of the Supreme Court of Government securities ordered by the court to be purchased:

(*e*) Regulating the placing on and withdrawal from deposit of money in court, and the payment or crediting of interest on money placed on deposit:

(*f*) Determining the smallest amount which is to be invested in securities, unless directed to be so invested notwithstanding the smallness of the amount, and determining the smallest amount which is to be placed or remain on deposit, and the smallest amount of money on deposit on which interest in pursuance of this Part of this Act is to be credited to an account to which money placed on deposit belongs:

(*g*) Determining the smallest amount which shall, notwithstanding any order of the court, be paid by the Accountant-General:

Provided that—

(i) No rules made in pursuance of this paragraph shall apply to any periodical payments of annuities, or of dividends or interest on funds in court;

(ii) The amount determined under this paragraph shall not exceed one shilling; and

(iii) Any sums retained by the Accountant-General in accordance with any rule made under this paragraph shall, in such manner as the Treasury may direct, be either paid into the Exchequer or applied as an appropriation in aid of the moneys granted by Parliament for the expenses of the Supreme Court:

(*h*) Determining the time at which money in court is to be placed on deposit, and at which interest on

money so placed on deposit is to begin and cease, and the mode of computing any such interest:

(*i*) Determining the cases in which interest on money placed on deposit, and the dividends on any securities standing to the account of the Accountant-General for and on behalf of the Supreme Court, is or are to be placed on deposit:

(*k*) Dealing with—

(*a*) accounts on which the balance of money and securities together amounts to less than five pounds;

(*b*) accounts on which that balance amounts to five pounds or more, but less than fifty pounds, and which have not been dealt with for a period of five years;

(*c*) accounts on which that balance amounts to fifty pounds or more and which have not been dealt with for a period of fifteen years;

and providing for the publication of lists of all or any of such last-mentioned accounts:

(*l*) Regulating the mode of framing and expressing orders of the court and instruments and proceedings of the Accountant-General with reference to the business of the court:

(*m*) Abrogating any general orders of the Court of Chancery relating to the matters aforesaid.

(2) Every rule made in pursuance of this section shall be laid before Parliament and every rule purporting to be so made shall be deemed to have been duly made and to have been within the powers of this Act.

Regulations as to stock-broker.

147. The Treasury may make regulations with respect to the stockbroker to be employed in transacting the business relating to the funds vested in the Accountant-General for and on behalf of the Supreme Court, and the amount of commission to be received by him, or his payment by salary or otherwise.

Accounts of funds in court.

148.—(1) Accounts in such form as the Treasury may direct, including all such accounts as may be necessary for carrying into effect the orders of the High Court, shall be kept for the purposes of this Part of this Act, and separate accounts shall be kept for the transactions

under this Part of this Act of the Accountant-General and of the National Debt Commissioners and of the liability of the Consolidated Fund under this Part of this Act.

(2) The accounts to be kept under this section shall be examined by the Comptroller and Auditor-General, and the Treasury shall cause copies of the accounts certified by the Comptroller and Auditor-General, together with his report thereon, to be sent to the Lord Chancellor and to be laid before both Houses of Parliament.

Interpretation of terms in Part VI.

149. In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say,—

"Supreme Court," "High Court" and "court" include the Lord Chancellor and any person exercising the powers of the judge in lunacy:

"Order of the court" means any such order, decree, report, certificate or direction of the court, or any judge or officer thereof, as may be prescribed by the rules:

"Dividends" includes interest or other periodical produce:

"Government securities" means any annuities, exchequer bonds or other parliamentary securities of the Government of the United Kingdom:

"Securities" includes Government securities, and any security of any foreign state, of any part of His Majesty's Dominions outside the United Kingdom, or of any body corporate or company, or any securities standing in books kept by any person in the United Kingdom:

"Securities in court" means any securities standing or deposited in the name or to the credit or account of the Accountant-General for and on behalf of the Supreme Court, or placed to the credit of a cause, matter or account in court:

"Money in court" means any sum of money paid into the Bank with the privity of the Accountant-General for and on behalf of the Supreme Court or placed to the credit of any cause, matter or account

in court, and includes dividends on securities in court and interest on money on deposit:

"Funds" and "funds in court" mean any money, securities or effects or any part thereof, standing or to be placed to the account or credit of the Accountant-General for and on behalf of the Supreme Court in the books of the Bank:

"The Bank" means the Bank of England.

PART VII.

PROBATE CAUSES AND MATTERS.

Grants of Probate and Administration.

Application for grants.

150. An application for the grant or revocation of probate or administration may be made through the principal probate registry:

Provided that—

(*a*) Where, in any contentious matter arising out of the application, the court is satisfied that the state of the property and the place of abode of the deceased were such as to give jurisdiction in the matter to a county court, the court may remit the matter to that county court and the judge thereof shall proceed in the matter as if the application had been made to the county court in the first instance:

(*b*) Where a registrar of the principal probate registry is satisfied by affidavit that the personal estate of the person in respect of whose estate the application for the grant or revocation is made exclusive of what he was possessed of or entitled to as a trustee and not beneficially, but without any deduction on account of his debts, was at the time of his death under the value of two hundred pounds, and that at that time he was not seised or entitled beneficially of or to any real estate of the value of three hundred pounds or upwards, the judge of the county court having jurisdiction in the place of abode of the deceased shall have the jurisdiction of the High Court in respect of any contentious matter arising in connection with the said grant or revocation.

Grants in district probate registries.

151.—(1) Grants may be made in common form by district probate registrars in the name of the High Court and under the seal of the registry, and any such grant shall have effect over the personal estate of the deceased, and, subject to the provisions of this Part of this Act, over the real estate of the deceased, in all parts of England.

(2) No grant shall be made by a district probate registrar in any case in which there is contention until the contention is disposed of, or in any case in which it appears to him that a grant ought not to be made without the direction of the court.

(3) In any case where it appears doubtful to a district probate registrar whether an application for a grant of probate or administration should or should not be granted, or where any question arises in relation to a grant, or an application for a grant, the district probate registrar shall send a statement of the matter in question to the principal probate registry for the directions of the court, and the court may direct the district probate registrar to proceed with the matter in accordance with such instructions as the court may think necessary, or may forbid any further proceedings by the district probate registrar in relation to the matter, leaving the party applying for the grant to apply to the High Court through the principal probate registry or, if the case is within the jurisdiction of a county court, to the county court.

Duties of district probate registrars.

152.—(1) A district probate registrar shall send to the principal probate registry a notice in the prescribed form of every application made in the registry for a grant as soon as may be after the application has been made, and no grant shall be made by him until he has received from the principal probate registry a certificate that no other application appears to have been made in respect of the estate of the testator or intestate.

(2) The certificate aforesaid shall be forwarded as soon as may be to the district probate registrar, and may be issued from the principal probate registry under a stamp provided for that purpose and approved by the President of the Probate Division.

(3) All notices so transmitted to the principal probate registry shall be filed and kept in that registry.

(4) Where any such notice is received from any district probate registry the registrars of the principal probate registry shall examine all notices of applications for grants received from the several other district probate registries and all applications for grants made at the principal probate registry, so far as may be necessary for the purpose of ascertaining whether application for a grant in respect of the estate of the same deceased person has been made in more than one registry, and shall communicate with the district probate registrar as occasion may require in relation thereto.

(5) A district probate registrar shall, once in every month, or oftener if required by probate rules or orders, transmit to the principal probate registry a list in the prescribed form of the grants made by him and not included in a previous return, and also copies of the wills to which the grants relate, certified by him to be correct under a stamp provided by the district probate registrar for that purpose and approved by the President of the Probate Division.

(6) A district probate registrar shall file and preserve all original wills of which probate or administration with the will annexed has been granted by him, subject to such regulations with respect to the preservation and inspection of the wills as may from time to time be made by the President of the Probate Division.

Second and subsequent grants.

153. Second and subsequent grants shall be made in the principal probate registry or in the district probate registry where the original will is registered or the original grant was made, or to which the original will or a registered copy thereof or the record of the original grant has been transmitted in pursuance of section eighty-nine of the Court of Probate Act, 1857, or of this Part of this Act.

Caveats.

154.—(1) A caveat against a grant of probate or administration may be entered in the principal probate registry or in any district probate registry.

(2) On a caveat being entered in a district registry, the district probate registrar shall immediately send a copy thereof to the principal probate registry to be entered among the caveats in that registry.

Power to grant representation of real and

155.—(1) Probate or administration in respect of the real estate of a deceased person, or any part thereof, may be granted either separately or together with probate or

personal estate separately or together.

administration of his personal estate, and may also be granted in respect of real estate only where there is no personal estate, or in respect of a trust estate only, and a grant of administration to real estate may be limited in any way the court thinks proper:

Provided that where the estate of the deceased is known to be insolvent, the grant of representation to the estate shall not be severed except as regards a trust estate.

(2) Provision may be made by probate rules and orders for adapting to the case of real estate the procedure and practice on the grant of administration.

Calendars of grants.

156.—(1) The President of the Probate Division shall cause to be prepared and printed from time to time in the principal probate registry calendars of the grants made in that registry and in the several district probate registries for such periods as the President of the Probate Division may direct.

(2) Every such calendar shall contain a note of every probate or administration with the will annexed and of every other administration granted within the period specified in the calendar, setting forth the date of the grant, the registry in which it was made, the name and the place and time of death of the testator or intestate, the names and descriptions of the executors or administrators, and the value of the estate.

(3) A printed copy of every calendar so prepared shall be sent by post or otherwise to every district probate registry, to the probate registry in Belfast, to the office of the commissary clerk of Edinburgh, and to such other offices as the President shall from time to time direct, and every copy so transmitted shall be kept in the registry or office to which it is transmitted, and may be inspected by any person on payment of a fee of one shilling for each search, without reference to the number of calendars inspected.

Copies of wills to be delivered to Commissioners of Inland Revenue.

157. Subject to any arrangements which may from time to time be made between the President of the Probate Division and the Commissioners of Inland Revenue, every probate registry shall, within such period after a grant as the President may direct, deliver to the Commissioners of Inland Revenue or their proper officer the following documents—

(*a*) In the case of a probate or of letters of administration with a will annexed, the Inland Revenue affidavit and a copy of the will:

(*b*) In the case of letters of administration without a will annexed, the Inland Revenue affidavit:

(*c*) In every case of letters of administration a copy or extract of the letters of administration:

(*d*) In every case such certificate or note of the grant as the said Commissioners may require.

Temporary provisions.

158. The foregoing provisions of this Part of this Act shall have effect subject to the temporary provisions set out in Part I. of the Fifth Schedule to this Act, and the extension of the power to make grants in district probate registries which will come into operation when the temporary provisions cease to have effect shall be subject to probate rules and orders.

Provisions as to Executors and Administrators.

Summons of executor to prove or renounce.

159. The High Court shall have power to summon any person named as executor in a will to prove or renounce probate of the will, and to do such other things concerning the will as were customary before the commencement of this Act.

Provisions as to the number of personal representatives.

160.—(1) Probate or administration shall not be granted to more than four persons in respect of the same property, and administration shall, if there is a minority or if a life interest arises under the will or intestacy, be granted either to a trust corporation, with or without an individual, or to not less than two individuals:

Provided that the court in granting administration may act on such primâ facie evidence, furnished by the applicant or any other person, as to whether or not there is a minority or life interest, as may be prescribed by probate rules and orders.

(2) If there is only one personal representative (not being a trust corporation) then, during the minority of a beneficiary or the subsistence of a life interest and until the estate is fully administered, the court may, on the application of any person interested or of the guardian, committee or receiver of any such person, appoint one or more personal representatives in addition to the original personal representative in accordance with probate rules and orders.

(3) This section shall apply to grants made after the date of the commencement of this Act, whether the testator or intestate died before or after that date.

Power to grant representation to a trust corporation.

161.—(1) The High Court may—

(*a*) where a trust corporation is named in a will as executor, whether alone or jointly with another person, grant probate to the corporation either solely or jointly with another person, as the case may require; and

(*b*) grant administration to a trust corporation, either solely or jointly with another person,

and the corporation may act accordingly as executor or administrator, as the case may be.

(2) Probate or administration shall not be granted to a syndic or nominee on behalf of a trust corporation.

(3) Any officer authorised for the purpose by a trust corporation or the directors or governing body thereof may, on behalf of the corporation, swear affidavits, give security and do any other act or thing which the court may require with a view to the grant to the corporation of probate or administration, and the acts of an officer so authorised shall be binding on the corporation.

(4) Where, at the commencement of this Act, any interest in any estate is vested in a syndic on behalf of a trust corporation acting as the personal representatives of a deceased person, the said interest shall, by virtue of this Act, vest in the corporation, and the syndic shall be kept indemnified by the corporation in respect of the said interest.

This subsection shall not apply to securities registered or inscribed in the name of a syndic or to land or a charge registered under the Land Registration Act, 1925, in the name of a syndic, but any such securities, land or charge, shall be transferred by the syndic to the corporation or as the corporation may direct.

15 & 16 Geo. 5. c. 21.

(5) This section shall have effect whether the intestate died before or after the commencement of this Act, and no such vesting or transfer as aforesaid shall operate as a breach of a covenant or condition against alienation or give rise to a forfeiture.

Discretion of court as to persons to whom administration is to be granted.

162.—(1) In granting administration the High Court shall have regard to the rights of all persons interested in the estate of the deceased person or the proceeds of sale thereof, and, in particular, administration with the will annexed may be granted to a devisee or legatee, and in regard to land settled previously to the death of the deceased and not by his will, may be granted to the

trustees of the settlement, and any such administration may be limited in any way the court thinks fit:

Provided that where the deceased died wholly intestate as to his estate, administration shall—

(*a*) unless by reason of the insolvency of the estate or other special circumstances the court thinks it expedient to grant administration to some other person, be granted to some one or more of the persons interested in the residuary estate of the deceased, if they make an application for the purpose; and

(*b*) as regards land settled previously to the death of the deceased, be granted to the trustees, if any, of the settlement if willing to act.

(2) This section shall apply only in the case of persons dying after the date of the commencement of this Act, and the High Court in granting administration in the case of persons dying at any time before that date shall act in accordance with the principles and rules in accordance with which it would have acted if this Act had not passed.

Administration pendente lite.

163.—(1) Where any legal proceedings touching the validity of the will of a deceased person, or for obtaining, recalling or revoking any grant, are pending, the High Court may grant administration of the estate of the deceased to an administrator, who shall have all the rights and powers of a general administrator, other than the right of distributing the residue of the estate, and every such administrator shall be subject to the immediate control of the court and act under its direction.

(2) The court may, out of the estate of the deceased, assign to an administrator appointed under this section such reasonable remuneration as the court thinks fit.

Grant of special administration where personal representative is abroad.

164.—(1) If at the expiration of twelve months from the death of a person any personal representative of the deceased to whom a grant has been made is residing out of the jurisdiction of High Court, the court may, on the application of any creditor or person interested in the estate of the deceased, grant to him in the prescribed form special administration of the estate of the deceased.

(2) The court may, for the purpose of any legal proceedings to which the administrator under the special administration is a party, order the transfer into court

of any money or securities belonging to the estate of the deceased person, and all persons shall obey any such order.

(3) If the personal representative capable of acting as such returns to and resides within the jurisdiction of the High Court while any legal proceedings to which a special administrator is a party are pending, that personal representative shall be made a party to the legal proceedings, and the costs of and incidental to the special administration and the legal proceedings shall be paid by such person and out of such fund as the court in which the proceedings are pending may direct.

Administration during minority of executor.

165.—(1) Where an infant is sole executor of a will, administration with the will annexed shall be granted to his guardian, or to such other person as the court thinks fit, until the infant attains the age of twenty-one years, and on his attaining that age, and not before, probate of the will may be granted to him.

(2) Where a testator by his will appoints an infant to be an executor, the appointment shall not operate to transfer any interest in the property of the deceased to the infant or to constitute him a personal representative for any purpose unless and until probate is granted to him under this section.

Administration with will annexed.

166. Subject to the provisions of any enactment relating to special executors in the case of settled land, administration with the will annexed shall continue to be granted in every case where such a grant was customary before the commencement of this Act, and in such case the will of the deceased shall be performed and observed in like manner as if probate thereof had been granted to an executor.

Administration bonds.

167.—(1) Every person to whom a grant of administration is made shall give a bond (in this section referred to as "an administration bond") to the senior registrar of the Probate Division by the name of "the principal probate registrar," and, subject to the provisions of this section, if the principal probate registrar, or, where the grant was made in a district registry, the district probate registrar, so requires, with one or more sureties conditioned for duly collecting, getting in, and administering the real and personal estate of the deceased.

(2) The principal probate registrar for the time being shall have power to enforce any administration

bond or to assign it in accordance with the provisions of this section to some other person.

(3) An administration bond shall be in such form as may be directed by probate rules and orders.

(4) Where it appears to the satisfaction of the court or a judge that the condition of an administration bond has been broken, the court or judge may, on an application in that behalf, order that the bond shall be assigned to such person as may be specified in the order, and the person to whom the bond is assigned in pursuance of the order shall be entitled to sue thereon in his own name as if it had been originally given to him instead of to the principal probate registrar, and to recover thereon as trustee for all persons interested the full amount recoverable in respect of the breach of the condition thereof.

(5) Without prejudice to any proceedings instituted before the first day of October, nineteen hundred and twenty-five, any administration bond given before that date under any enactment repealed by the Administration of Justice Act, 1925, or which is to be enforceable as if it had been given under any such enactment, may be enforced or assigned as if it had been given to the principal probate registrar under this section.

(6) Nothing in this section shall require the Solicitor for the affairs of His Majesty's Treasury or the Solicitor for the affairs of the Duchy of Lancaster, when applying for or obtaining administration for the use or benefit of His Majesty, to give an administration bond.

(7) Probate rules and orders may be made for providing that sureties to administration bonds shall not be required when the grant is made to a trust corporation or to two or more individuals, or in any other proper case.

Resealing of Grants made in other Countries.

Resealing of Scottish confirmations.

168.—(1) If a confirmation of the executor of a person who died domiciled in Scotland, which includes besides the estate situate in Scotland also personal estate situate in England, is produced to the High Court, and a copy thereof deposited in the principal probate registry, the confirmation shall, if there is inserted therein or noted thereon a statement signed by the sheriff clerk to the effect that the deceased died domiciled in Scotland,

be sealed with the seal of the principal probate registry and returned to the person producing it, and shall on being so sealed have the like effect in England as if it were a grant made by the High Court.

(2) The foregoing provisions of this section shall apply—

(*a*) to an additional confirmation granted in a sheriff court in Scotland of estate situate in England of a person who died domiciled in Scotland, whether the original confirmation has been sealed with the seal of the principal probate registry or not, and notwithstanding that the additional inventory confirmed does not contain any estate of the deceased situate in Scotland; and

(*b*) to a confirmation or additional confirmation of personal estate situate in Scotland which contains or has appended thereto and signed by the sheriff clerk a note or a statement of funds in England held by the deceased in trust, being a note or statement which has been set forth in any inventory recorded in the books of the court of which the sheriff clerk is clerk;

as they apply with respect to confirmations which include personal estate situate in England.

38 & 39 Vict. c. 41. 39 & 40 Vict. c. 24.

(3) Where a confirmation granted under the Intestates Widows and Children (Scotland) Act, 1875, or the Small Testate Estates (Scotland) Act, 1876, contains estate in England, the principal probate registrar shall, on the confirmation being sent to him for the purpose by the commissary clerk or sheriff clerk together with a fee of two shillings and sixpence, affix thereto the seal of the principal probate registry.

Resealing of Irish grants.

169.—(1) If probate or letters of administration granted by the High Court of Justice in Northern Ireland is or are produced to the High Court and a copy thereof is deposited with the principal probate registry, the grant shall, subject to the provisions of this section, be sealed with the seal of the principal probate registry, and shall have the like effect in England as if it had been originally made by the High Court.

57 & 58 Vict. c. 30.

(2) Where a grant has been made under section sixteen of the Finance Act, 1894, by the High Court of Justice in Northern Ireland in respect of the estate of

any person and there is estate of that person in England, the principal probate registrar, if the case is one in which a grant might have been made under the said section sixteen in England, shall, subject to the provisions of this section, on the grant being sent to him for the purpose together with a fee of two shillings and sixpence, affix thereto the seal of the principal probate registry.

(3) No grant shall be resealed under the provisions of this section unless and until there is delivered to the principal probate registry, together with the grant, an Inland Revenue affidavit accounting, as on an application for an original grant, for the estate duty, if any, payable in Great Britain in respect of the personal estate of which the deceased was competent to dispose at his death, except that if the estate duty has previously been paid on a prior certification in Scotland of the grant in question, the Inland Revenue affidavit shall be endorsed to that effect by the Commissioners of Inland Revenue.

(4) Notwithstanding the provisions of section forty-eight of the Finance (No. 2) Act, 1915, a grant made by the High Court of Justice in Northern Ireland shall not have effect with respect to Government stock in England unless it is re-sealed under the provisions of this section. 5 & 6 Geo. 5. c. 89.

(5) This section shall apply to grants in respect of the estates of persons dying on or after the first day of April, nineteen hundred and twenty-three.

Miscellaneous.

170. There shall be one place of deposit under the control of the High Court, at such place in the County of London as His Majesty may by Order in Council direct, in which— Place of deposit of original wills.

(*a*) all original wills brought into the High Court or of which probate or administration with the will annexed has been granted in the principal probate registry;

(*b*) copies of all wills the originals of which are to be preserved in any district registry; and

(*c*) such other documents as the High Court may direct,

shall be deposited and preserved, and in which, subject to the control of the High Court and to probate rules and orders, they may be inspected.

Official copies of wills.

171. An official copy of the whole or any part of a will or an official certificate of any grant of administration may, on payment of the prescribed fee, be obtained from the registry where the will was proved or the administration granted.

Depositories of wills of living persons.

172. There shall, under the control and direction of the High Court, be provided safe and convenient depositories for the custody of the wills of living persons, and any person may deposit his will therein on payment of such fees and subject to such regulations as may from time to time be prescribed by the President of the Probate Division.

Transmission of documents to High Court.

173.—(1) Every person having the custody of documents which belonged to any court or person who had jurisdiction, immediately before the commencement of the Court of Probate Act, 1857, to grant probate or administration shall, upon receiving a requisition from any probate registrar under the seal of the principal probate registry transmit to the principal probate registry or to any other place mentioned in the requisition, at the time and in the manner therein mentioned, any one or more of any documents relating exclusively or principally to testamentary causes or matters which may be in his possession or control, and any document so requisitioned shall be deposited and arranged in the principal probate registry or the district probate registry, as the case may be, under the control and direction of the High Court so as to be easy of reference.

(2) If any person refuses or neglects to comply with a requisition made under this section he shall be liable to a penalty of one hundred pounds, which (together with the costs of the proceedings) shall be recoverable in the High Court by a probate registrar.

(3) The Treasury may, out of moneys provided by Parliament, pay such expenses of arranging, classifying, indexing, transmitting or otherwise connected with the removal of documents in consequence of any requisition under this section as the President of the Probate Division may from time to time certify to the Treasury to be proper and necessary.

(4) Notwithstanding anything in this section, it shall be lawful for the University of Oxford to retain the custody of any such documents belonging to the court

of the Chancellor of Oxford University as are included in the index of which a copy has been transmitted to the principal probate registrar under section two of the Oxford University Act, 1860: 23 & 24 Vict. c. 91.

Provided that any person shall at all convenient times, under the authority of a registrar of the principal probate registry or of the district probate registrar at Oxford, be entitled to inspect and to take extracts or copies therefrom on payment of the same fees as would be payable if the documents had been deposited in the principal probate registry or in the district probate registry at Oxford, and all such fees shall be payable to the persons who would in that event be entitled to receive them, and no officer of the University or of the said court shall be entitled to receive any such fees.

Seals for use in probate registries.

174.—(1) In the principal probate registry and in every district probate registry there shall be used such seal as the President of the Probate Division may from time to time direct.

(2) All probates, letters of administration, orders and other instruments and copies thereof and all exemplifications purporting to be sealed with any such seal as aforesaid shall be received in evidence in all parts of the United Kingdom without further proof.

Interpretation of terms in Part VII. and saving.

175.—(1) In this Part of this Act, and in the other provisions of this Act relating to probate causes and matters, unless the context otherwise requires, the following expressions shall have the meaning hereby assigned to them respectively, that is to say:—

"Administration" includes all letters of administration of the effects of deceased persons, whether with or without a will annexed, and whether granted for general, special or limited purposes:

"The court" means the High Court or a judge:

"Estate" means real and personal estate, and the expression "real estate" includes—

(*a*) chattels real and land in possession, remainder or reversion and every interest in or over land to which the deceased person was entitled at the time of his death; and

(*b*) real estate held on trust or by way of mortgage, whether by demise or sub-demise, or of security, but not money to arise under a trust for

sale of land, nor money secured or charged on land:

"Grant" means a grant of probate or of administration:

"Inland Revenue affidavit" has the same meaning as in Part I. of the Finance Act, 1894: 57 & 58 Vict. c. 30.

"Non-contentious or common form probate business" means the business of obtaining probate and administration where there is no contention as to the right thereto, including the passing of probates and administrations through the High Court in contentious cases where the contest has been terminated, and all business of a non-contentious nature in matters of testacy and intestacy not being proceedings in any action, and also the business of lodging caveats against the grant of probate or administration:

"Prescribed" means prescribed by probate rules and orders:

"Settled land" and "trustees of the settlement" have the same meaning as in the Settled Land Act, 1925: 15 & 16 Geo. 5. c. 18.

"Testamentary cause or matter" includes all cases or matters relating to the grant or revocation of probate or administration:

"Trust corporation" means the public trustee or a corporation either appointed by the court in any particular case to be a trustee or authorised by rules made under subsection (3) of section four of the Public Trustee Act, 1906, to act as custodian trustee: 6 Edw. 7. c. 55.

"Will" includes any testamentary instrument of which probate may be granted.

(2) Nothing in this Act shall operate to extend to any real estate to which any person dying before the first day of January, eighteen hundred and ninety-eight, or any person dying on or after that day and before the commencement of this Act was entitled, any enactments or rules of law which did not immediately before the said first day of January or the commencement of this Act, as the case may be, extend to the real estate of such a person or to confer on the High Court with respect to any such real estate any probate jurisdiction which

was not immediately before the said first day of January or immediately before the commencement of this Act, as the case may be, vested in the High Court constituted under the Act of 1873.

(3) The provisions set out in Part II. of the Fifth Schedule to this Act shall, subject in the case of a person dying on or after the first day of January, eighteen hundred and ninety-eight, and before the commencement of this Act to the provisions of the Land Transfer Act, 1897, have effect with respect to the probate or revocation of the probate of the will of any person dying as is mentioned in subsection (2) of this section which affects real estate and with respect to the evidentiary effect in actions concerning real estate of probate or administration granted in respect of the estate of a person so dying. 60 & 61 Vict. c. 65.

PART VIII.

MATRIMONIAL CAUSES AND MATTERS.

Divorce and Nullity of Marriage.

176. A petition for divorce may be presented to the High Court (in this Part of this Act referred to as "the court")— Grounds for petition for divorce.

(*a*) by a husband on the ground that his wife has since the celebration of the marriage been guilty of adultery; and

(*b*) by a wife on the ground that her husband has since the celebration of the marriage been guilty of rape, or of sodomy or bestiality, or that he has since the celebration of the marriage and since the seventeenth day of July, nineteen hundred and twenty-three, been guilty of adultery:

Provided that nothing in this Act shall affect the right of a wife to present a petition for divorce on any ground on which she might, if the Matrimonial Causes Act, 1923, had not passed, have presented such a petition, and on any petition presented by a wife for divorce on the ground of the adultery and cruelty, or adultery and desertion, of her husband, the husband and wife shall be competent and compellable to give evidence with respect to the cruelty or desertion. 13 & 14 Geo. 5. c. 19.

Provision as to making adulterer co-respondent.

177.—(1) On a petition for divorce presented by the husband or in the answer of a husband praying for divorce the petitioner or respondent, as the case may be, shall make the alleged adulterer a co-respondent unless he is excused by the court on special grounds from so doing.

(2) On a petition for divorce presented by the wife the court may, if it thinks fit, direct that the person with whom the husband is alleged to have committed adultery be made a respondent.

Duty of court on presentation of petition.

178.—(1) On a petition for divorce it shall be the duty of the court to satisfy itself so far as it reasonably can both as to the facts alleged and also as to whether the petitioner has been accessory to or has connived at or condoned the adultery or not, and also to enquire into any countercharge which is made against the petitioner.

(2) If on the evidence the court is not satisfied that the alleged adultery has been committed or find that the petitioner has during the marriage been accessory to or has connived at or condoned the adultery complained of, or that the petition is presented or prosecuted in collusion with either of the respondents, the court shall dismiss the petition.

(3) If the court is satisfied on the evidence that the case for the petition has been proved and does not find that the petitioner has in any manner been accessory to or connived at or condoned the adultery or that the petition is presented or prosecuted in collusion with either of the respondents, the court shall pronounce a decree of divorce:

Provided that the court shall not be bound to pronounce a decree of divorce if it finds that the petitioner has during the marriage been guilty of adultery, or if in the opinion of the court he has been guilty—

(*a*) of unreasonable delay in presenting or prosecuting the petition; or

(*b*) of cruelty towards the other party to the marriage; or

(*c*) of having without reasonable excuse deserted, or of having without reasonable excuse wilfully separated himself or herself from, the other party before the adultery complained of; or

(*d*) of such wilful neglect or misconduct as has conduced to the adultery.

Dismissal of respondent or co-respondent from proceedings.

179. In any case in which, on the petition of a husband for divorce, the alleged adulterer is made a co-respondent or in which, on the petition of a wife for divorce, the person with whom the husband is alleged to have committed adultery is made a respondent, the court may, after the close of the evidence on the part of the petitioner, direct the co-respondent or the respondent, as the case may be, to be dismissed from the proceedings if the court is of opinion that there is not sufficient evidence against him or her.

Relief to respondent on petition for divorce.

180. If in any proceedings for divorce the respondent opposes the relief sought, in the case of proceedings instituted by the husband, on the ground of his adultery, cruelty or desertion, or, in the case of proceedings instituted by the wife, on the ground of her adultery, cruelty or desertion, the court may give to the respondent the same relief to which he or she would have been entitled if he or she had presented a petition seeking such relief.

Duties of King's Proctor.

181. In the case of any petition for divorce or for nullity of marriage—

(1) The court may, if it thinks fit, direct all necessary papers in the matter to be sent to His Majesty's Proctor, who shall under the directions of the Attorney-General instruct counsel to argue before the court any question in relation to the matter which the court deems to be necessary or expedient to have fully argued, and His Majesty's Proctor shall be entitled to charge the costs of the proceedings as part of the expenses of his office:

(2) Any person may at any time during the progress of the proceedings or before the decree nisi is made absolute give information to His Majesty's Proctor of any matter material to the due

decision of the case, and His Majesty's Proctor may thereupon take such steps as the Attorney-General considers necessary or expedient:

(3) If in consequence of any such information or otherwise His Majesty's Proctor suspects that any parties to the petition are or have been acting in collusion for the purpose of obtaining a decree contrary to the justice of the case, he may, under the direction of the Attorney-General, after obtaining the leave of the court, intervene and retain counsel and subpœna witnesses to prove the alleged collusion.

Provisions as to costs where King's Proctor intervenes or shows cause.

182.—(1) Where His Majesty's Proctor intervenes or shows cause against a decree nisi in any proceedings for divorce or for nullity of marriage, the court may make such order as to the payment by other parties to the proceedings of the costs incurred by him in so doing or as to the payment by him of any costs incurred by any of the said parties by reason of his so doing, as may seem just.

(2) So far as the reasonable costs incurred by His Majesty's Proctor in so intervening or showing cause are not fully satisfied by any order made under this section for the payment of his costs, he shall be entitled to charge the difference as part of the expenses of his office, and the Treasury may, if they think fit, order that any costs which under any order made by the court under this section His Majesty's Proctor pays to any parties shall be deemed to be part of the expenses of his office.

Decree nisi for divorce or nullity of marriage.

183.—(1) Every decree for a divorce or for nullity of marriage shall, in the first instance, be a decree nisi not to be made absolute until after the expiration of six months from the pronouncing thereof, unless the court by general or special order from time to time fixes a shorter time.

(2) After the pronouncing of the decree nisi and before the decree is made absolute, any person may, in the prescribed manner, show cause why the decree should not be made absolute by reason of the decree having been obtained by collusion or by reason of material facts not having been brought before the court, and in

any such case the court may make the decree absolute, reverse the decree nisi, require further inquiry or otherwise deal with the case as the court thinks fit.

Re-marriage of divorced persons.

184.—(1) As soon as any decree for divorce is made absolute, either of the parties to the marriage may, if there is no right of appeal against the decree absolute, marry again as if the prior marriage had been dissolved by death or, if there is such a right of appeal, may so marry again, if no appeal is presented against the decree, as soon as the time for appealing has expired, or, if an appeal is so presented, as soon as the appeal has been dismissed:

Provided that it shall not be lawful for a man to marry the sister or half-sister of his divorced wife or of his wife by whom he has been divorced during the lifetime of the wife, or the divorced wife of his brother or half-brother or the wife of his brother or half-brother who has divorced his brother during the lifetime of the brother or half-brother.

(2) No clergyman of the Church of England shall be compelled to solemnise the marriage of any person whose former marriage has been dissolved on the ground of his or her adultery, or shall be liable to any proceedings, penalty or censure for solemnising or refusing to solemnise the marriage of any such person.

(3) If any minister of any church or chapel of the Church of England refuses to perform the marriage service between any persons who but for his refusal would be entitled to have the service performed in that church or chapel, he shall permit any other minister of the Church of England entitled to officiate within the diocese in which the church or chapel is situate to perform the marriage service in that church or chapel.

Judicial Separation and Restitution of Conjugal Rights.

Decree for judicial separation

185.—(1) A petition for judicial separation may be presented to the court either by the husband or the wife on the ground of adultery or cruelty, desertion without cause for not less than two years, failure to comply with a decree for restitution of conjugal rights, or on any ground on which a decree for divorce a mensâ et thoro

might have been pronounced immediately before the commencement of the Matrimonial Causes Act, 1857.

20 & 21 Vict. c. 85.

(2) The court may, on being satisfied that the allegations contained in the petition are true and that there is no legal ground why the petition should not be granted, make a decree for judicial separation, and any such decree shall have the same force and effect as a decree for divorce a mensâ et thoro had immediately before the commencement of the Matrimonial Causes Act, 1857.

(3) The court may, on the application by petition of the husband or wife against whom a decree for judicial separation has been made, and on being satisfied that the allegations contained in the petition are true, reverse the decree at any time after the making thereof, on the ground that it was obtained in the absence of the person making the application, or, if desertion was the ground of the decree, that there was reasonable cause for the alleged desertion.

(4) The reversal of a decree for judicial separation shall not affect the rights or remedies which any other person would have had if the decree had not been reversed in respect of any debts, contracts or acts of the wife incurred, entered into or done between the date of the decree and of the reversal thereof.

Decree for restitution of conjugal rights.

186. A petition for restitution of conjugal rights may be presented to the court either by the husband or the wife, and the court, on being satisfied that the allegations contained in the petition are true, and that there is no legal ground why a decree for restitution of conjugal rights should not be granted, may make the decree accordingly.

Periodical payments in lieu of attachment.

187.—(1) A decree for restitution of conjugal rights shall not be enforced by attachment, but where the application is by the wife the court, at the time of making the decree or at any time afterwards, may, in the event of the decree not being complied with within any time in that behalf limited by the court, order the respondent to make to the petitioner such periodical payments as may be just, and the order may be enforced in the same manner as an order for alimony in proceedings for judicial separation.

(2) The court may, if it thinks fit, order that the husband shall, to the satisfaction of the court, secure to the wife the periodical payments, and for that purpose may direct that it shall be referred to one of the conveyancing counsel of the court to settle and approve a proper deed or instrument to be executed by all necessary parties.

Legitimacy Declarations.

Declaration of legitimacy, &c.

188.—(1) Any person who is a natural-born subject of His Majesty, or whose right to be deemed a natural-born subject of His Majesty depends wholly or in part on his legitimacy or on the validity of any marriage, may, if he is domiciled in England or Northern Ireland or claims any real or personal estate situate in England, apply by petition to the court for a decree declaring that the petitioner is the legitimate child of his parents, and that the marriage of his father and mother or of his grandfather and grandmother was a valid marriage or that his own marriage was a valid marriage.

(2) Any person who is so domiciled or claims as aforesaid, may apply to the court for a decree declaring his right to be deemed a natural-born subject of His Majesty.

(3) Applications under subsections (1) and (2) of this section may be included in the same petition and on any such application the court shall make such decree as the court thinks just, and the decree shall be binding on His Majesty and all other persons whatsoever:

Provided that the decree of the court shall not prejudice any person—

(i) if it is subsequently proved to have been obtained by fraud or collusion; or

(ii) unless that person has been cited or made a party to the proceedings or is the heir-at-law, next of kin, or other real or personal representative of, or derives title under or through, a person so cited or made a party.

(4) A copy of every petition under this section and of any affidavit accompanying the petition shall be delivered to the Attorney-General at least one month before the petition is presented or filed, and the Attorney-General shall be a respondent on the hearing of the

petition and on any subsequent proceedings relating thereto.

(5) In any application under this section such persons shall, subject to rules of court, be cited to see proceedings or otherwise summoned as the court shall think fit, and any such persons may be permitted to become parties to the proceedings and to oppose the application.

(6) The provisions of this Act relating to matrimonial causes shall, so far as applicable, extend to any proceedings under this section.

(7) No proceedings under this section shall affect any final judgment or decree already pronounced or made by any court of competent jurisdiction.

Miscellaneous.

Damages.

189.—(1) A husband may on a petition for divorce or for judicial separation or for damages only, claim damages from any person on the ground of adultery with the wife of the petitioner.

(2) A claim for damages on the ground of adultery shall, subject to the provisions of any enactment relating to trial by jury in the court, be tried on the same principles and in the same manner as actions for criminal conversation were tried immediately before the commencement of the Matrimonial Causes Act, 1857, and the provisions of this Act with reference to the hearing and decision of petitions shall so far as may be necessary apply to the hearing and decision of petitions on which damages are claimed.

(3) The court may direct in what manner the damages recovered on any such petition are to be paid or applied, and may direct the whole or any part of the damages to be settled for the benefit of the children, if any, of the marriage, or as a provision for the maintenance of the wife.

Alimony.

190.—(1) The court may, if it thinks fit, on any decree for divorce or nullity of marriage, order that the husband shall, to the satisfaction of the court, secure to the wife such gross sum of money or annual sum of money for any term, not exceeding her life, as having regard to

her fortune, if any, to the ability of her husband and to the conduct of the parties, the court may deem to be reasonable, and the court may for that purpose order that it shall be referred to one of the conveyancing counsel of the court to settle and approve a proper deed or instrument, to be executed by all the necessary parties, and may, if it thinks fit, suspend the pronouncing of the decree until the deed or instrument has been duly executed.

(2) In any such case as aforesaid the court may, if it thinks fit, by order, either in addition to or instead of an order under subsection (1) of this section, direct the husband to pay to the wife during the joint lives of the husband and wife such monthly or weekly sum for her maintenance and support as the court may think reasonable:

Provided that—

(*a*) if the husband, after any such order has been made, becomes from any cause unable to make the payments, the court may discharge or modify the order, or temporarily suspend the order as to the whole or any part of the money ordered to be paid, and subsequently revive it wholly or in part as the court thinks fit; and

(*b*) where the court has made any such order as is mentioned in this subsection and the court is satisfied that the means of the husband have increased, the court may, if it thinks fit, increase the amount payable under the order.

(3) On any petition for divorce or nullity of marriage the court shall have the same power to make interim orders for the payment of money by way of alimony or otherwise to the wife as the court has in proceedings for judicial separation.

(4) Where any decree for restitution of conjugal rights or judicial separation is made on the application of the wife, the court may make such order for alimony as the court thinks just.

(5) In all cases where the court makes an order for alimony, the court may direct the alimony to be paid

either to the wife or to a trustee approved by the court on her behalf, and may impose such terms or restrictions as the court thinks expedient, and may from time to time appoint a new trustee if for any reason it appears to the court expedient so to do.

Power of court to order settlement of wife's property.

191.—(1) If it appears to the court in any case in which the court pronounces a decree for divorce or for judicial separation by reason of the adultery of the wife that the wife is entitled to any property either in possession or reversion, the court may, if it thinks fit, order such settlement as it thinks reasonable to be made of the property, or any part thereof, for the benefit of the innocent party, and of the children of the marriage or any or either of them.

Any instrument made under any order of the court made under this section shall be valid and effectual, notwithstanding the existence of coverture at the time of the execution thereof.

(2) Where the application for restitution of conjugal rights is by the husband, and it appears to the court that the wife is entitled to any property, either in possession or reversion, or is in receipt of any profits of trade or earnings, the court may, if it thinks fit, order a settlement to be made to the satisfaction of the court of the property or any part thereof for the benefit of the petitioner and of the children of the marriage or either or any of them or may order such part of the profits of trade or earnings, as the court thinks reasonable, to be periodically paid by the respondent to the petitioner for his own benefit, or to the petitioner or any other person for the benefit of the children of the marriage, or either or any of them.

Power of court to make orders as to application of settled property.

192. The court may after pronouncing a decree for divorce or for nullity of marriage enquire into the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders with reference to the application of the whole or any part of the property settled either for the benefit of the children of the marriage or of the parties to the marriage, as the court thinks fit, and the court may exercise the powers conferred by this subsection notwithstanding that there are no children of the marriage.

Custody of children.

193.—(1) In any proceedings for divorce or nullity of marriage or judicial separation, the court may from time to time, either before or by or after the final decree, make such provision as appears just with respect to the custody, maintenance and education of the children, the marriage of whose parents is the subject of the proceedings, or, if it thinks fit, direct proper proceedings to be taken for placing the children under the protection of the court.

(2) On an application made in that behalf the court may, at any time before final decree, in any proceedings for restitution of conjugal rights, or, if the respondent fails to comply therewith, after final decree, make from time to time all such orders and provisions with respect to the custody, maintenance and education of the children of the petitioner and respondent as might have been made by interim orders if proceedings for judicial separation had been pending between the same parties.

Wife's property in case of judicial separation.

194.—(1) In every case of judicial separation—

(*a*) the wife shall, as from the date of the decree and so long as the separation continues, be considered as a feme sole with respect to any property which she may acquire or which may devolve upon her, and any such property may be disposed of by her in all respects as a feme sole and if she dies intestate shall devolve as if her husband had been then dead; and

(*b*) the wife shall, during the separation, be considered as a feme sole for the purpose of contract and wrongs and injuries, and of suing and being sued, and the husband shall not be liable in respect of her contracts or for any wrongful act or omission by her or for any costs she incurs as plaintiff or defendant:

Provided that—

(i) where on any judicial separation alimony has been ordered to be paid and has not been duly paid by the husband, he shall be liable for necessaries supplied for the use of the wife:

(ii) if the wife returns to cohabitation with her husband, any property to which she is entitled at the date of her return shall, subject to any agreement in writing made between herself and her husband while separate, be her separate property:

(iii) nothing in this section shall prevent the wife from joining at any time during the separation in the exercise of any joint power given to herself and her husband.

(2) In any case where the decree for judicial separation is obtained by the wife, any property to which she is entitled for an estate in remainder or reversion at the date of the decree, and any property to which she becomes entitled as executrix, administratrix or trustee after the date of the decree, shall be deemed to be property to which this section applies, and for the purpose aforesaid the death of the testator or intestate shall be deemed to be the date when the wife became entitled as executrix or administratrix.

Protection of third parties.

195.—(1) Where a wife obtains a decree for judicial separation, the decree shall, so far as may be necessary for the protection of any person dealing with the wife, be valid and effectual until discharged, and the discharge or variation of the decree shall not affect any rights or remedies which any person would have had, if the decree had not been discharged or varied, in respect of any debts, contracts or acts of the wife incurred, entered into or done during the period between the date of the decree and the discharge or variation thereof.

(2) Any person who, in reliance on any such decree as aforesaid, makes any payment to or permits any transfer or act to be made or done by the wife, shall, notwithstanding the subsequent discharge or variation of the decree, or the fact that the separation has ceased or has been discontinued, be protected and indemnified in the same way in all respects as if at the time of the payment, transfer or other act the decree were valid and still subsisting without variation in full force and effect, or the separation had not ceased or been discontinued, as the case may be, unless at that time that person had notice of the discharge or variation of

the decree or that the separation had ceased or been discontinued.

Power to vary orders.

196. The court may from time to time vary or modify any order for the periodical payment of money made under the provisions of this Act relating to matrimonial causes and matters either by altering the times of payment or by increasing or diminishing the amount, or may temporarily suspend the order as to the whole or any part of the money ordered to be paid, and subsequently revive it wholly or in part, as the court thinks just.

Power to allow intervention on terms.

197. In every case in which any person is charged with adultery with any party to a suit or in which the court may consider, in the interest of any person not already a party to the suit, that that person should be made a party to the suit, the court may, if it thinks fit, allow that person to intervene upon such terms, if any, as the court thinks just.

Evidence.

198. The parties to any proceedings instituted in consequence of adultery and the husbands and wives of the parties shall be competent to give evidence in the proceedings, but no witness in any such proceedings, whether a party thereto or not, shall be liable to be asked or be bound to answer any question tending to show that he or she has been guilty of adultery unless he or she has already given evidence in the same proceedings in disproof of the alleged adultery.

Power of Secretary of State to order records to be transmitted from ecclesiastical courts.

199.—(1) A Secretary of State may order any judge, registrar or other officer of any ecclesiastical court in England or the Isle of Man, or any other person having the public custody or control of any records, books, documents or other instruments relating to matrimonial causes and matters, to transmit the same at such times, and in such manner, and to such places in London or Westminster, and subject to such regulations, as the Secretary of State may appoint.

(2) If any person wilfully disobeys an order made under this section he shall for the first offence forfeit the sum of one hundred pounds to be recoverable as a debt in the court by any registrar of the principal probate registry, and for a second or any subsequent offence the court may, by a warrant of committal countersigned by a Secretary of State, commit the person

so offending to prison for any period not exceeding three months.

Seal of court for use in matrimonial causes.

200.—(1) The seal of the court to be used in respect of its jurisdiction in matrimonial causes and matters shall be such as the Lord Chancellor may from time to time direct.

(2) All decrees and orders of the court, or copies thereof, made in pursuance of the said jurisdiction shall, if purporting to be sealed with the said seal, be received in evidence in all parts of the United Kingdom without further proof.

PART IX.

JURISDICTION OF INFERIOR COURTS.

Power by Order in Council to confer jurisdiction on inferior courts.

201. His Majesty may from time to time by Order in Council confer on any inferior court of civil jurisdiction the same jurisdiction in equity and in admiralty respectively as any county court has, and that jurisdiction, if and when conferred, shall be exercised in manner directed by this Act.

Powers of inferior courts having equity and admiralty jurisdiction.

202. Every inferior court which has jurisdiction in equity, or at law and in equity, and in admiralty respectively, shall, as regards all causes of action within its jurisdiction for the time being, grant in any proceeding before it such relief, redress or remedy, or combination of remedies, either absolute or conditional, and shall in every such proceeding give such and the like effect to every ground of defence or counter-claim, equitable or legal (subject to the provisions of the next following section), as ought to be granted or given in the like case by the High Court and in as full and ample a manner.

Counter-claims in inferior courts, and transfers therefrom.

203. Where in any proceeding before any such inferior court any defence or counter-claim of the defendant involves matter beyond the jurisdiction of the court, the defence or counter-claim shall not affect the competence or the duty of the court to dispose of the whole matter in controversy so far as relates to the demand of the plaintiff and the defence thereto, but no relief exceeding that which the court has jurisdiction to

administer shall be given to the defendant upon any such counter-claim:

Provided that—

(1) It shall be lawful for the High Court, or any Division or judge thereof, if it be thought fit, on the application of any party to the proceeding, to order that the whole proceeding be transferred from the inferior court to the High Court or to any Division, and in such case the record in the proceeding shall be transmitted by the registrar or other proper officer of the inferior court to the High Court, and the proceeding shall thenceforth be continued and prosecuted in the High Court as if it had been originally commenced therein:

(2) The jurisdiction of an inferior court in cases of counter-claim shall not be excluded—

(*a*) by reason that the counter-claim involves matter not within the local jurisdiction of that court, but within the jurisdiction of any other inferior court in England; or

(*b*) where the counter-claim involves two or more causes of action as to each of which the defendant might have maintained a separate action and each of which is within the jurisdiction of the court, by reason that the aggregate amount of the counter-claim exceeds the jurisdiction of the court; or

(*c*) by reason that the counter-claim is for an amount of money exceeding the jurisdiction of the court, unless the plaintiff, within the prescribed time, objects in writing to relief being given by the court in excess of the relief which the court would before the twenty-fourth day of October, eighteen hundred and eighty-four, have had jurisdiction to administer:

(3) In any case where the counter-claim involves matter beyond the jurisdiction of the court, the court, notwithstanding the provisions of this section, may, on such terms, if any, as the court thinks just, either adjourn the hearing of the case or stay execution on the judgment

for such time as may be necessary to enable any party to apply to remove the proceedings into the High Court or to enable the defendant to take proceedings in a court of competent jurisdiction for the purpose of establishing his counter-claim, and in default of any such application being made or any such action being brought, the court shall, after the expiration of the time limited, have jurisdiction to hear and determine the whole matter in controversy to the same extent as if all parties had consented thereto.

Power to transfer interpleader proceedings to county court.

204. If it appears to the court or a judge that any proceeding in the High Court by way of interpleader, in which the amount or value of the matter in dispute does not exceed the sum of five hundred pounds, may be more conveniently tried and determined in a county court, the court or judge may at any time order the transfer thereof to any county court in which an action or proceeding might have been brought by any party to the interpleader against any other party thereto if there had been a trust to be executed concerning the matter in question, and every such order shall have the same effect as if it had been for the transfer of an action or matter under section sixty-nine of the County Courts Act, 1888, as amended by section four of the County Courts Act, 1919, and the county court shall have jurisdiction and authority to proceed therein, as may be prescribed by county court rules.

51 & 52 Vict. c. 43.
9 & 10 Geo. 5. c. 73.

Transfer to county court of money recovered in High Court by infants, &c.

205.—(1) Where in any cause or matter in the King's Bench Division or in an admiralty action in the Probate Division money is in any manner recovered by or on behalf of, or adjudged or ordered to be paid to or for the benefit of, a person who is an infant or of unsound mind, the High Court or a judge may order the money or any part thereof to be paid into or transferred to the county court of the district in which that person resides or such other county court as the High Court or judge may order, and the money or the part thereof to which the order relates shall thereupon be paid or transferred accordingly, and shall, subject to any special order or direction of the High Court or a judge and to county court rules, be invested, applied or otherwise dealt with for the benefit of that person in such manner as the county court in its discretion thinks fit.

(2) The provisions of this section shall apply to money which in proceedings under the Fatal Accidents Acts, 1846 to 1908, is recovered by or adjudged or ordered to be paid to the widow of the person killed as they apply to money recovered by or adjudged or ordered to be paid to an infant.

(3) The Lord Chancellor may, with the concurrence of the Treasury, by order prescribe the fees to be charged in respect of the payment and investment of money or the application thereof or dealing therewith under this section.

(4) Where before the first day of October, nineteen hundred and twenty-five, money recovered in any cause or matter in the King's Bench Division by or on behalf of a person who is an infant or of unsound mind has been paid to the Public Trustee, it shall be lawful for the Public Trustee to pay that money, or so much of it as remains in his possession into the county court of the district in which that person resides, and money so transferred shall be invested, applied or dealt with in the same manner as if it had been paid into the county court under subsection (1) of this section.

(5) County court rules may be made for the purpose of carrying into effect the provisions of this section so far as they relate to the receipt of money into county courts and the investment thereof or application thereof or dealing therewith and the duties of registrars of county courts, and any such rules may provide for the transfer of money paid into a county court under this section or the investment representing any such money from one county court to another.

(6) Any order made by the Lord Chancellor under this section may be revoked, varied or amended by a subsequent order so made.

Rules for inferior courts.

206. Where by virtue of any statute or charter or otherwise powers of making rules and orders for regulating the procedure or practice of or the costs or fees in any inferior court of civil jurisdiction are given to or have been exercised by the judge of any such court or any other person, either solely or jointly with any other person, and either with or without the concurrence of any judge of the Supreme Court or any other person, any rules or orders made by virtue of any

of those powers shall be subject to the concurrence of the authority for the time being empowered to make rules of court under this Act:

Provided that the same authority may alter or annul any rule or order made before the twenty-fourth day of October, eighteen hundred and eighty-four, as to the matters aforesaid in any such court.

Power to apply Act and rules.

207. His Majesty may from time to time by Order in Council extend to any inferior court of civil jurisdiction any of the provisions of this Act relating to practice or procedure or of the rules of the Supreme Court with such modifications as may be necessary or desirable.

Appeal from inferior court of record.

208. His Majesty may from time to time by Order in Council direct that the enactments relating to appeals from county courts shall apply to any other inferior court of record, and those enactments, subject to any exceptions, conditions and limitations contained in the Order, shall apply accordingly as from the date mentioned in the Order.

Application of certain repealed enactments in local courts. 46 & 47 Vict. c. 49.

209. If and in so far as any enactment repealed by the Statute Law Revision and Civil Procedure Act, 1883, applies, or may have been applied by Order in Council, to the Court of the County Palatine of Lancaster, or to any inferior court of civil jurisdiction, that enactment shall be construed as if it were contained in a local and personal Act specially relating to that court, and shall have effect accordingly.

PART X.

MISCELLANEOUS PROVISIONS.

Council of judges to consider operation of Act, &c.

210.—(1) A council of the judges of the Supreme Court, of which due notice shall be given to all the said judges, shall assemble once at least in every year, on such day or days as shall be fixed by the Lord Chancellor with the concurrence of the Lord Chief Justice, for the purpose of considering the operation of this Act and of any rules of court, and also the working of the several offices and the arrangements relative to the duties of the officers of the Supreme Court, and of enquiring and examining into any defects which may appear to exist in the system of procedure or the administration of the law in the High Court or the Court of Appeal, or in any other

court from which any appeal lies to the High Court or any judge thereof or to the Court of Appeal.

(2) The said council shall report annually to a Secretary of State what amendments or alterations, if any, it would in their judgment be expedient to make in this Act, or otherwise relating to the administration of justice, and what other provisions, if any, which cannot be carried into effect without the authority of Parliament it would be expedient to make for the better administration of justice.

(3) The Lord Chancellor may convene at any time an extraordinary council of the judges.

Lords Commissioners to represent Lord Chancellor when Great Seal in commission.

211. When the Great Seal is in commission, the Lords Commissioners shall represent the Lord Chancellor for the purposes of this Act:

Provided that the powers vested in the Lord Chancellor by this Act in relation to—

(*a*) the presidency of the Court of Appeal;

(*b*) the appointment or approval of officers;

(*c*) the approval of any order for the removal of officers;

(*d*) any other act to which the concurrence or presence of the Lord Chancellor is by this Act made necessary;

may be exercised by the senior Lord Commissioner for the time being.

Provision as to laying Orders in Council, rules and regulations before Parliament.

212. Every Order in Council, (other than an Order in Council altering the number of the Divisions or of the judges attached to any Division), rule (other than a rule made in pursuance of the provisions of this Act for facilitating the production of documents filed in or in the custody of the central office) or regulation made under this Act and by this Act required to be laid before Parliament shall be laid before each House of Parliament within one month after it is made, if Parliament is then sitting, or, if Parliament is not then sitting, within one month after the commencement of the next session of Parliament, and if either House before the expiration of forty days on which that House has sat next after the Order in Council, rule or regulation is laid before it presents an address to His Majesty praying

that the Order in Council, rule or regulation may be annulled, His Majesty may by Order in Council annul it, and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

Fixing of fees in High Court and Court of Appeal.

213.—(1) Subject to the provisions of this Act, the Lord Chancellor, with the advice and consent of the judges of the Supreme Court or any three of them, and with the concurrence of the Treasury, may by order fix the fees and percentages to be taken in the High Court or in the Court of Appeal or in any court created by any commission or in any office which is connected with any of those courts, or in which any business connected with any of those courts is conducted, or by any officer paid wholly or partly out of public moneys who is attached to any of those courts or the Supreme Court or any judge of those courts, and may from time to time by order increase, reduce or abolish all or any of such fees and percentages, and appoint new fees and percentages to be taken in the said courts or offices or any of them, or by any such officer as aforesaid.

(2) Provision for imposing or fixing the amount of any fees to be taken in connection with proceedings in the Supreme Court which might before the commencement of the Administration of Justice Act, 1925, have been imposed or fixed by rules of court may, except in the case of the fees to be taken in connection with non-contentious probate business, be imposed or fixed by means of orders under this section.

(3) Any order made in pursuance of this section shall have effect as if enacted in this Act.

(4) The Treasury, with the concurrence of the Lord Chancellor, may make such rules as they may think fit for publishing the amount of the fees.

(5) An order under this section may abolish any former fees and percentages which may be taken in the said courts or offices, or any of them, or by the said officers or any of them, but, subject to the provisions of any order made in pursuance of this section, the former fees and percentages shall continue to be taken, applied and accounted for in the same manner as formerly.

Annual account of fees and expenditure.

214.—(1) The Lord Chancellor shall cause to be prepared annually an account for the year ending the thirty-first day of March, showing the receipts and expenditure during the preceding year in respect of the High Court and the Court of Appeal, and of any court, office or officer, the fees taken in which or by whom can be fixed in pursuance of this Act.

(2) The account shall be made out in such form and contain such particulars as the Treasury, with the concurrence of the Lord Chancellor, may from time to time direct.

(3) Every officer by whom or in whose office fees are taken which can be fixed in pursuance of this Act shall make such returns and give such information as the Lord Chancellor may from time to time require for the purpose of enabling him to make out the said account.

(4) The said account shall be laid before both Houses of Parliament within one month after the thirty-first day of March in each year, if Parliament is then sitting, or if Parliament is not then sitting, within one month after the next meeting of Parliament.

Provisions as to solicitors.

215.—(1) Any person duly admitted as a solicitor of the Supreme Court shall be an officer of the Court, and the High Court and the Court of Appeal respectively, or any Division or judge thereof, may exercise the same jurisdiction in respect of solicitors as any one of Her late Majesty's superior courts of law or equity might formerly have exercised in respect of any solicitor, attorney or proctor admitted to practice therein.

(2) References in any enactment to solicitors, attorneys or proctors, shall be construed as references to solicitors of the Supreme Court, and the officer formerly known as the registrar of attorneys and solicitors shall be called the registrar of solicitors.

(3) The powers relating to solicitors vested in the Master of the Rolls jointly with any other judge by the Solicitors Act, 1843, the Solicitors Act, 1860, and the Solicitors Act, 1877, and any Act amending those Acts, shall be vested in the Master of the Rolls, with the concurrence of the Lord Chancellor and the Lord Chief Justice, or (in case of difference) of one of them, and anything required by those Acts to be done to or before

6 & 7 Vict. c. 73.
23 & 24 Vict. c. 127.
40 & 41 Vict. c. 25.

any judge jointly with the Master of the Rolls, may be done to or before the Master of the Rolls, the Lord Chancellor and the Lord Chief Justice.

Fees of commissioners for oaths and registrar of solicitors.

216.—(1) Such fees shall be chargeable—

(*a*) by commissioners for oaths in respect of the administration of an oath or the taking of an affidavit; and

(*b*) by the registrar of solicitors in respect of the registration under section thirty of the Solicitors Act, 1860, of any authority or appointment;

23 & 24 Vict. c. 127.

as may be prescribed by the Lord Chancellor by order made with the concurrence of the Lord Chief Justice and the Master of the Rolls.

(2) Any order made under this section may be revoked or varied by a subsequent order so made.

(3) In this section the expression "affidavit" has the same meaning as in the Commissioners for Oaths Act, 1889.

52 & 53 Vict. c. 10.

Conveyancing counsel of court.

217.—(1) The conveyancing counsel of the court shall be conveyancing counsel in actual practice who have practised as such for ten years at least.

(2) The conveyancing counsel of the court shall not be less than six in number and shall be appointed by the Lord Chancellor.

(3) Business shall be distributed among the conveyancing counsel in such order and manner as the Lord Chancellor thinks fit.

Enrolment and engrossment of instruments.

218.—(1) The Master of the Rolls may, subject to the provisions of this section, make regulations—

(*a*) for authorising and regulating the enrolment or filing of deeds in the Supreme Court and for prescribing the form in which certificates of enrolment or filing are to be granted; and

(*b*) prescribing the fees to be paid on the enrolment or filing of any deed, including any additional fees payable on the enrolment or filing of any deed out-of-time:

Provided that regulations shall not be made under paragraph (*a*) of this subsection so as to affect or prejudice in any manner the operation of any enactment requiring

or authorising the enrolment in the Supreme Court of any deed or prescribing the manner in which any deed is to be so enrolled, and shall not be made under paragraph (*b*) of this subsection without the concurrence of the Treasury.

(2) Any instrument which is required or authorised under or in pursuance of the provision of any enactment to be enrolled or engrossed or enrolled and engrossed in any manner in the Supreme Court shall be deemed to have been duly enrolled, engrossed, or enrolled and engrossed in accordance with those provisions if it is written on such material and has been filed or otherwise preserved in such manner as the Master of the Rolls may by order direct.

(3) Every regulation made under this section shall be laid before Parliament.

(4) In this section the expression "deeds" includes assurances and other instruments.

Deposit of original instruments creating powers of attorney.

219.—(1) An instrument creating a power of attorney, the execution of which has been verified by affidavit, statutory declaration or other sufficient evidence, may, with the affidavit or declaration, if any, be deposited in the central office.

(2) A separate file of instruments so deposited shall be kept, and any person may search that file, and inspect every instrument so deposited, and an office copy thereof shall be delivered out to him on request.

(3) A copy of an instrument so deposited may be presented at the office, and may be stamped or marked as, and when so stamped and marked shall become, an office copy.

(4) An office copy of an instrument so deposited shall without further proof be sufficient evidence of the contents of the instrument and of the deposit thereof in the central office.

(5) Rules of court may be made for the purposes of this section regulating the practice of the central office and prescribing, with the concurrence of the Treasury, the fees to be taken therein.

Provision for facilitating production of documents filed in or in

220.—(1) Rules may be made under this section for providing that, in any case where a document filed in or in the custody of any department of the central office is required to be produced to any court or tribunal (including an umpire or arbitrator) sitting elsewhere than

custody of central office.

at the Royal Courts of Justice, it shall not be necessary for an officer of the department, whether served with a subpœna in that behalf or not, to attend for the purpose of producing the document, and that the document may be produced to the court or tribunal by sending it by registered post, together with a certificate in the form prescribed by the rules to the effect that the document has been filed in, or is in the custody of, the department, to such judge or officer of the court as may be so prescribed, and any such certificate shall be prima facie evidence of the facts stated therein.

(2) Rules made under this section may contain provisions for securing the safe custody and return to the proper department of the central office of any document sent to a court or tribunal in pursuance of the rules, and such other provisions as appear to the rule-making authority necessary or expedient for carrying this section into effect.

(3) Rules for the purposes of this section may be made by the Lord Chancellor, the Lord Chief Justice and the senior master of the Supreme Court (King's Bench Division), and all such rules shall be laid before Parliament.

Power of masters to sell by auction under order of High Court without licence. 8 & 9 Vict. c. 15.

221. Any master of the Supreme Court (Chancery Division), or any person appointed in that behalf by any such master, may, without any licence as an auctioneer and without being liable to the duty imposed by the Auctioneers Act, 1845, or any other Act in force at the commencement of this Act, sell under the order of the High Court any goods or chattels, lands, tenements or hereditaments, or any interests therein.

Name of Law Courts. 28 & 29 Vict. c. 48. 28 & 29 Vict. c. 49.

222. The buildings erected under the Courts of Justice Building Act, 1865, and the Courts of Justice Concentration (Site) Act, 1865, together with all additions thereto, shall be styled "The Royal Courts of Justice."

Presentation and swearing of Lord Mayor of London.

223. The presentation and swearing of the Lord Mayor of the City of London shall take place in the King's Bench Division, or before the judges of that Division, on the ninth day of November in every year, or, if that day is a Sunday, on the day following, and in the same manner as was formerly accustomed in the Court of Exchequer.

Acts relating to former courts to be read as applying to courts under this Act.

224.—(1) All Acts relating to the several courts and judges whose jurisdiction is vested in the High Court and the Court of Appeal respectively, or wherein any of those courts or judges are referred to, shall be construed and have effect as if the High Court or the Court of Appeal and the judges thereof respectively, as the case may be, had been referred to therein instead of the first-mentioned courts or judges, and all statutes, charters and other instruments in which Westminster is described or referred to as the locality of the said courts shall be construed as if the Royal Courts of Justice had been so described or referred to.

(2) In all cases not hereby expressly provided for in which under any such Act as aforesaid the concurrence or the advice or consent of the judge, or of any of the judges, of any one or more of the courts whose jurisdiction is vested in the High Court is required for the exercise of any power or authority, that power or authority may be exercised by and with the concurrence, advice or consent of the same or a like number of judges of the High Court.

Interpretation of terms.

225. In this Act, unless the context otherwise requires the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"Action" means a civil proceeding commenced by writ or in such other manner as may be prescribed by rules of court, but does not include a criminal proceeding by the Crown:

"The Act of 1873" means the Supreme Court of Judicature Act, 1873: 36 & 37 Vict. c. 66.

"Cause" includes any action, suit or other original proceeding between a plaintiff and defendant, and any criminal proceeding by the Crown:

"Clerk of assize" includes the clerk of the Crown and associate on circuit and any other office the duties of which may be performed by the clerk of assize:

"Commission of assize" includes a commission of assize, a commission of oyer and terminer and a commission of gaol delivery, and any commission in lieu thereof issued under this Act:

"County" includes a county of a city or county of a town and any division of any county constituted by any Order in Council made under the provisions of this Act relating to assizes, and the sheriff for a county so divided shall, for the purpose of those provisions be deemed to be the sheriff for the division of the county:

"Defendant" includes any person served with any writ of summons or process, or served with notice of, or entitled to attend, any proceedings:

"Division" means Division of the High Court:

"Formerly" means immediately before the date of the commencement of the Act of 1873, that is to say, the first day of November, eighteen hundred and seventy-five, and the expression "former" shall be construed accordingly:

"Inferior court" includes a county court as well as any other inferior court:

"Judgment" includes decree:

"Lord Chief Justice" means Lord Chief Justice of England:

"Matrimonial cause" means any action for divorce, nullity of marriage, judicial separation, jactitation of marriage or restitution of conjugal rights:

"Matter" includes every proceeding in court not in a cause:

"Officer of the Supreme Court" in the provisions of this Act relating to the salaries and pensions of officers includes officer in lunacy:

"Party" includes every person served with notice of or attending any proceeding, although not named on the record:

"Petitioner" includes every person making any application to the court, either by petition, motion or summons, otherwise than as against any defendant:

"Plaintiff" includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the proceeding is by action, suit, petition, motion, summons or otherwise:

"Pleading" includes any petition or summons, and also includes the statements in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any counter-claim of a defendant:

"Prescribed" means prescribed by rules of court:

"Probate Division" means the Probate, Divorce and Admiralty Division:

"Rules of court" includes forms:

"Solicitor" means solicitor of the Supreme Court:

"Spring assizes" means any court of assize held in March, April or May:

"Suit" includes action:

"United Kingdom" means, in relation to anything done before the date of the constitution of the Irish Free State, Great Britain and Ireland, and in relation to anything done or to be done after that date, Great Britain and Northern Ireland:

"Winter assizes" means any court of assize held in September, October, November, December or January.

Repeal and savings.

226.—(1) The enactments set out in the Sixth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that, subject as in this Act otherwise expressly provided and without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889:— 52 & 53 Vict. c. 63.

(*a*) Nothing in this repeal shall affect any Order in Council, rule, order or regulation made, commission issued, direction given, or thing done, under any enactment repealed by this Act, or deemed to have been made, issued, given or done respectively under any such enactment, and every such Order, rule, order, regulation, commission or direction shall continue in force, and, so far

as it could have been made, issued or given under this Act, shall have effect as if made, issued or given under this Act:

(*b*) Nothing in this repeal shall affect any right of appointment vested in any judge or circuit officer or in the Master of the Rolls as Keeper of the Records:

(*c*) Any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or to the corresponding enactment in this Act.

(2) Any person holding office or serving, or deemed to be serving, under any enactment repealed by this Act, shall continue in office or service as if he had been appointed under this Act, and nothing in this repeal shall affect the terms and conditions on and subject to which any person held office immediately before the commencement of this Act or prejudice or affect any right to pension, compensation or allowance which a person would otherwise have had on the abolition of, or on retirement from, his office or otherwise, or the amount thereof.

(3) References in any enactment or document to the Supreme Court, Court of Appeal or High Court constituted under the Judicature Acts, 1873 to 1910, or to the Divisions or offices thereof, shall be construed respectively as references to the Supreme Court, Court of Appeal, or High Court constituted under this Act, or the Divisions or offices thereof, and any act done or proceedings taken in respect of any cause or matter whatsoever before the commencement of this Act in the Supreme Court constituted under the Judicature Acts, 1873 to 1910, shall be deemed to have been done or taken in the Supreme Court constituted under this Act.

(4) Nothing in this Act shall affect the office of marshal attending any commissioner of assize.

(5) Save as therein otherwise expressly provided, nothing in this Act shall affect the operation of any enactment which is in force at the commencement of this Act and is not expressly repealed by this Act.

Short title and commencement.

227.—(1) This Act may be cited as the Supreme Court of Judicature (Consolidation) Act, 1925.

(2) This Act shall come into force on the first day of January, nineteen hundred and twenty-six.

SCHEDULES.

FIRST SCHEDULE.

Section 99.

ENACTMENTS CONTAINING AND REGULATING MATTERS WITH RESPECT TO WHICH RULES OF COURT MAY BE MADE.

Session and Chapter.	Title or Short Title.	Enactments affected.
4 Will. & Mar. c. 18.	An Act to prevent malicious informations in the Court of King's Bench.	The whole Act so far as unrepealed.
8 & 9 Will. 3. c. 11.	An Act for the better preventing of frivolous and vexatious suits.	The whole Act so far as unrepealed.
4 & 5 Anne c. 3.	An Act for the Amendment of the Law and the better Advancement of Justice.	Sections twelve and thirteen.
7 Geo. 2. c. 20	The Mortgage Act, 1733.	The whole Act.
39 & 40 Geo. 3. c. 36.	The Transfer of Stock Act, 1800.	The whole Act so far as unrepealed.
10 Geo. 4. c. 13.	The Court Funds Act, 1829.	The whole Act so far as unrepealed.
11 Geo. 4. & 1 Will. 4. c. 36.	The Contempt of Court Act, 1830.	The whole Act so far as unrepealed.
2 & 3 Will. 4. c. 58.	The Contempt of Court Act, 1832.	The whole Act so far as unrepealed.
3 & 4 Will. 4. c. 42.	The Civil Procedure Act, 1833.	Sections sixteen and eighteen.
1 & 2 Vict. c. 110.	The Judgments Act, 1838.	Sections fourteen and fifteen.
3 & 4 Vict. c. 65.	The Admiralty Court Act, 1840.	Sections seven, eight, and nine.
3 & 4 Vict. c. 82.	The Judgments Act, 1840.	The whole Act so far as unrepealed.

1ST SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Enactments affected.
5 Vict. c. 5 -	The Court of Chancery Act, 1841.	Section four.
5 & 6 Vict. c. 86.	The Exchequer Court Act, 1842.	The whole Act so far as unrepealed.
5 & 6 Vict. c. 97.	The Limitations of Actions and Costs Act, 1842.	Sections four and five.
12 & 13 Vict. c. 109.	The Petty Bag Act, 1849.	The whole Act so far as unrepealed.
15 & 16 Vict. c. 76.	The Common Law Procedure Act, 1852.	Sections one hundred and twenty-six, one hundred and twenty-seven, one hundred and thirty-two, two hundred and ten to two hundred and fourteen, and two hundred and seventeen to two hundred and twenty.
20 & 21 Vict. c. 77.	The Court of Probate Act, 1857.	Sections twenty-four, twenty-six and thirty-one.
20 & 21 Vict. c. 85.	The Matrimonial Causes Act, 1857.	Sections thirty-nine, forty-one to forty-four, forty-six, and forty-nine.
21 & 22 Vict. c. 93.	The Legitimacy Declaration Act, 1858.	Section three.
21 & 22 Vict. c. 95.	The Court of Probate Act, 1858.	Section twenty-three.
21 & 22 Vict. c. 108.	The Matrimonial Causes Act, 1858.	Section thirteen.
23 & 24 Vict. c. 126.	The Common Law Procedure Act, 1860.	Section seventeen.
23 & 24 Vict. c. 149.	The Court of Chancery Act, 1860.	Sections two, three, five, and six.
24 & 25 Vict. c. 10.	The Admiralty Court Act, 1861.	Sections sixteen, eighteen, twenty-five, twenty-six, twenty-eight, thirty-three, and thirty-four.
36 & 37 Vict. c. 66.	The Supreme Court of Judicature Act, 1873.	Sections forty-six, sixty-four, and sixty-six.

SECOND SCHEDULE.

Section 108.

SCHEME FOR ESTABLISHMENT OF DISTRICT PROBATE REGISTRIES.

Group.	Registries.	Sub-registries.
1	Newcastle. Durham. Carlisle.	
2	Leeds. Sheffield. York.	
3	Manchester.	
4	Liverpool. Lancaster.	
5	Chester	Bangor. Shrewsbury.
6	Lincoln Nottingham. Leicester.	Derby.
7	Peterborough. Norwich. Ipswich.	
8	Birmingham Oxford.	Northampton.
9	Cardiff	Hereford. Gloucester. Carmarthen.
10	Bristol Exeter.	Bodmin.
11	Southampton Lewes.	Salisbury.

NOTES.

1. The place first mentioned in the second column of the foregoing Table in relation to each group shall be the chief registry of the group, and the registrar of that place shall by virtue of his office be the registrar of the other registries and of any sub-registries in the group.

2ND SCH. —*cont.*

2. If the President of the Probate Division, with the concurrence of the Lord Chancellor and the Treasury and after consultation with the Council of the Borough of Cardiff, thinks fit so to direct, Llandaff shall be substituted for Cardiff as the chief registry of Group 9.

3. In addition to the places mentioned in the third column of the said Table, there shall be a district probate sub-registry at Canterbury which shall be under the management of the principal probate registry.

THIRD SCHEDULE.

Sections 118, 119, 127, 128.

PART I.

OFFICES IN THE CASE OF WHICH SPECIAL PROVISIONS AS TO APPOINTMENT, RETIREMENT, AND PENSION APPLY.

Permanent Secretary to the Lord Chancellor.
Master of the Supreme Court (King's Bench Division).
Assistant Master of the Supreme Court (King's Bench Division).
Master of the Supreme Court (Chancery Division).
Master of the Supreme Court (Taxing Office).
Master in Lunacy.
Legal Visitor in Lunacy.
Official Referee to the Supreme Court.
Official Solicitor to the Supreme Court.
Registrar, High Court in Bankruptcy.
Taxing Master, High Court in Bankruptcy.
Registrar, Probate Division.

Section 127.

PART II.

OFFICES IN CASE OF WHICH SPECIAL PROVISIONS AS TO RETIREMENT APPLY.

Registrar, Chancery Division.
Medical Visitor in Lunacy.

Section 128.

PART III.

SCALE OF SUPERANNUATION ALLOWANCES IN THE CASE OF THE OFFICERS MENTIONED IN PART I.

1. An annual allowance not exceeding ten-sixtieths of the last annual salary may be granted after the completion of a period of service of five years.

3RD SCH. —*cont.*

2. Where the period of service completed exceeds five years, there may be granted an annual allowance not exceeding ten-sixtieths of the last annual salary with an addition of one-fortieth of that salary for each completed year's service in excess of five.

3. The maximum allowance shall be two-thirds of the last annual salary.

PART IV.

Section 128.

ALLOWANCES, &C. IN THE CASE OF OFFICERS TO WHOM THE SUPERANNUATION ACT, 1909, APPLIES.

1. The scale of allowances set out in Part III. of this Schedule shall apply to officers who adopt the provisions of this Part of this Schedule, with the substitution for the amounts of the allowances set out in the said Part III. of those amounts reduced by one quarter.

2. The Treasury may on the recommendation of the Lord Chancellor grant, by way of additional allowance to any such officer who retires after having served for not less than five years, in addition to any allowance which may be granted to him under paragraph 1 of this Part of this Schedule, a lump sum equal, where the officer has served for five completed years, to ten-thirtieths of such annual salary, and, where the officer has served for more than five completed years, to ten-thirtieths of such annual salary, with an addition of one-twentieth of such annual salary for each completed year's service in excess of five, so, however, that the additional allowance shall in no case exceed one and a half times the amount of such annual salary:

Provided that—

(*a*) in the case of any officer appointed before the passing of the Superannuation Act, 1909, the amount of the additional allowance shall be increased by one-half per cent. in respect of each completed year which he had served at the date of the passing of that Act; and

(*b*) in the case of an officer retiring after attaining the age of sixty-five years, there shall be deducted from the amount of the additional allowance which would otherwise be payable to him one-twentieth of that amount for every completed year's service subsequent to attaining that age.

3. Where any such officer dies after serving five years or upwards and while still employed in his office, the Treasury may, on the recommendation of the Lord Chancellor, grant to his legal personal representatives a gratuity equal to the annual

3RD SCH. —*cont.*

salary of his office, or equal to the additional allowance calculated in the manner provided by the last preceding paragraph, whichever is the greater:

Provided that the amount of the gratuity which may be so granted shall be reduced by one-twentieth for every completed year's service subsequent to attaining the age of sixty-five years.

4. Where any such officer dies after having become entitled to an annual allowance, and the sums actually received by him up to the time of his death on account of that allowance together with the sum received by him by way of additional allowance are less than the amount of the annual salary of his office, the Treasury, on the recommendation of the Lord Chancellor, may grant to his legal personal representatives a gratuity equal to the difference.

Section 126.

FOURTH SCHEDULE.

QUALIFICATIONS FOR CERTAIN OFFICES IN THE SUPREME COURT.

Office.	Persons qualified for appointment.
1. Permanent Secretary to the Lord Chancellor and Clerk of the Crown.	1.—(i) A practising barrister of not less than ten years' standing; or (ii) A barrister of not less than ten years' standing who has during the ten years immediately preceding his appointment been employed in some legal capacity under the State, or who has during part of that period been employed in such a capacity and during the remainder of that period been in practice as a barrister.
2. Master, King's Bench Division (including the King's Coroner and Attorney and Master of the Crown Office).	2.—(i) A practising barrister of not less than ten years' standing; or (ii) An official referee; or (iii) A master in lunacy.
3. Official Referee -	3.—(i) A practising barriser of not less than ten years' standing; or (ii) A master, King's Bench Division; or (iii) A master in lunacy.

4TH SCH. —*cont.*

Officer.	Person qualified for appointment.
4. Masters in Lunacy	4.—(i) A practising barrister of not less than ten years' standing; or (ii) A master, King's Bench Division; or (iii) An official referee.
5. Registrar in Bankruptcy of the High Court.	5.—A practising barrister or practising solicitor of not less than ten years' standing.
6. Master, Chancery Division.	6.—(i) A practising solicitor of not less than ten years' standing; or (ii) A master, Taxing Office, provided he has been a practising solicitor of not less than ten years' standing; or (iii) The official solicitor to the Supreme Court, provided he has been a practising solicitor of not less than ten years' standing.
7. Master, Taxing Office.	7.—(i) A practising solicitor of not less than ten years' standing; or (ii) An admitted solicitor of not less than ten years' standing who has during the ten years immediately preceding his appointment been employed as deputy or assistant master or as deputy assistant to the official solicitor or as a clerk in the offices of the Royal Courts of Justice, or who has during part of that period been employed as such deputy or assistant or clerk and during the remainder of that period been in practice as a solicitor, provided that there shall at no time be more than one taxing master who shall have been appointed by virtue of the qualification specified in this paragraph; or (iii) A master, Chancery Division; or (iv) The official solicitor to the Supreme Court, provided he has been a practising solicitor of not less than ten years' standing.

4TH SCH. —*cont.*

Officer.	Person qualified for appointment.
8. Legal Visitor in Lunacy.	8. A practising barrister or practising solicitor of not less than ten years' standing.
9. Official Solicitor to the Supreme Court.	9.—(i) A practising solicitor of not less than ten years' standing; or (ii) An admitted solicitor of not less than ten years' standing who has during the ten years immediately preceding his appointment been employed as deputy or assistant master or as deputy or assistant to the official solicitor or as a clerk in the offices of the Royal Courts of Justice, or who has during part of that period been employed as such deputy or assistant or clerk and during the remainder of that period been in practice as a solicitor; or (iii) A master, Chancery Division; or (iv) A master, Taxing Office.

For the purposes of this Schedule, any persons who, having been called to the bar or admitted as solicitors before the fourth day of August, nineteen hundred and fourteen, have practised as barristers or solicitors for a period of, or periods amounting in the aggregate to, not less than ten years shall, if they served in His Majesty's Forces in the late war, be deemed to be practising barristers and practising solicitors respectively.

FIFTH SCHEDULE.

Section 158.

PART I.

TEMPORARY PROVISIONS WITH RESPECT TO GRANTS IN DISTRICT PROBATE REGISTRIES.

1. During such time as this Part of this Schedule continues in operation—

(i) The following shall be substituted for proviso (*b*) to section one hundred and fifty of this Act:—

"(*b*) Where a registrar of the principal probate registry is satisfied by affidavit that the person in

5TH SCH. —*cont.*

respect of whose estate the application for the grant or revocation is made had at the time of his death his fixed place of abode in one of the districts for which there is a district probate registry, and that his personal estate, exclusive of what he was possessed of or entitled to as a trustee and not beneficially, but without any deduction on account of his debts, was at the time of his death under the value of two hundred pounds, and that at that time he was not seised or entitled beneficially of or to any real estate of the value of three hundred pounds or upwards, the judge of the county court having jurisdiction in the said place of abode shall have the jurisdiction of the High Court in respect of any contentious matter arising in connection with the said grant or revocation."

(ii) The following subsections shall be substituted for subsection (1) of section one hundred and fifty-one of this Act:—

"(1) Where it appears by the affidavit of any person making an application to a district probate registrar for the grant of probate or administration that the testator or intestate had at the time of his death a fixed place of abode within the district of the registry in which the application is made, a grant may be made in common form by the district probate registrar in the name of the High Court and under the seal of the registry, and the grant shall have effect over the personal estate of the deceased, and, subject to the provisions of this Part of this Act, over the real estate of the deceased, in all parts of England.

(2) The place of abode must be stated in the affidavit.

(3) The affidavit shall be conclusive for the purpose of authorising the grant by the district probate registrar, and the grant—

(*a*) shall not be liable to be recalled, revoked, or otherwise impeached by reason that the deceased had no fixed place of abode within the district at the time of his death; and

(*b*) shall effectually discharge and protect all persons paying to or dealing with any executor or administrator thereunder, notwithstanding the want of, or any defect in, the affidavit required under this section."

5TH SCH. —*cont.*

(iii) The following subsection shall be added to section one hundred and fifty-three of this Act:—

"(2) Where a second or subsequent grant is made in a district probate registry, it shall not be necessary to show by affidavit that the testator or intestate had a fixed place of abode within the district in which the application is made."

(iv) The following subsection shall be added to section one hundred and fifty-four of this Act:—

"(3) On a caveat being entered in the principal probate registry, notice thereof shall be given to the district probate registrar of any district in which it is alleged that the deceased resided at the time of his decease, and to any other district probate registrar to whom it is in the opinion of the principal probate registrar expedient that notice of the entry of the caveat should be sent."

2. This Part of this Schedule shall cease to have effect on such date as the President of the Probate Division, with the concurrence of the Lord Chancellor, may direct.

PART II.

Section 175.

PROVISIONS TO APPLY IN THE CASE OF PERSONS DYING BEFORE THE COMMENCEMENT OF THE ACT WITH RESPECT TO THE PROBATE OF WILLS AFFECTING REAL ESTATE AND WITH RESPECT TO THE EVIDENTIARY EFFECT OF PROBATE AND LETTERS OF ADMINISTRATION.

1. The following provisions shall have effect in relation to any proceedings taken for proving in solemn form a will affecting real estate or for revoking probate of such a will on the ground of invalidity, or where the validity of such a will is disputed in any other contentious cause or matter:—

(*a*) The heir-at-law, devisee, and other persons having or pretending interest in the real estate affected by the will shall, subject as hereinafter provided and to rules of court, be cited to see proceedings or otherwise summoned in like manner as the next of kin or others having or alleging interest in the personal estate affected by a will, and may be permitted by the court, subject to rules of court, to become parties or to intervene for their respective interests:

Provided that the court may proceed without citing any such persons as aforesaid, unless the court is satisfied that the deceased was at the time of his death seised of or entitled to, or had power to appoint by

5TH SCH. —*cont.*

will, real estate beneficially, or that the will in question would affect real estate, but in any case where the court proceeds without citing any such persons the probate or decree of the court shall not affect any of those persons in respect of his interest in real estate unless he derives title under or through a person who has been so cited;

(*b*) Where probate of the will has been granted or its validity otherwise decreed, the probate or decree shall enure for the benefit of all persons interested in the real estate affected by the will;

(*c*) The probate copy of the will or the letters of administration with the will annexed, or a copy thereof respectively, stamped with the seal of the court, shall, in all courts and in all proceedings affecting real estate (other than proceedings by way of appeal in any such proceedings as are first mentioned in this Part of this Schedule or for revocation of probate or administration), be conclusive evidence of the validity and contents of the will in like manner as a probate is evidence in matters relating to real estate;

(*d*) Where probate is refused or revoked on the ground of the invalidity of the will, or the invalidity of the will is otherwise declared, the decree declaring the invalidity shall enure for the benefit of the heir-at-law or other persons against whose interests in real estate the will might operate, and the will shall not be received in evidence in any proceeding affecting real estate other than in any proceeding by way of appeal from the decree.

2.—(*a*) A party to any proceeding who seeks to establish a devise or other testamentary disposition affecting real estate, may give to the opposite party, ten days at least before the trial or proceeding in which the proof is intended to be adduced, notice that he intends to give in evidence, as proof of the devise or other testamentary disposition, the probate of the will or the letters of administration with the will annexed, or a copy thereof stamped with the seal of the court.

(*b*) Where any such notice has been given, the probate, letters of administration, or a copy thereof, stamped as aforesaid, shall be sufficient evidence of the will and of its validity and contents, notwithstanding that it has not been proved in solemn form or otherwise declared valid in a contentious cause or matter, unless the party receiving the notice, within four days after the receipt thereof, gives notice that he disputes the validity of the devise or testamentary disposition.

Section 226.

SIXTH SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
31 Edw. 3 -	The Statute made at Westminster on the Monday next after the Feast of Easter in the thirty-first year, Statute the first.	Chapter eleven.
14 Hen. 6. c. 1.	Justices of nisi prius may give judgement etc. in treason and felony.	The whole Act.
3 Hen. 7. c. 3	An Act that Justices of Peace may take Bayle.	The words from "and ov." to "C. s."
23 Hen. 8. c. 9.	An Acte that no psonne shal be cited oute of the Diõc where he or she dwelleth excepte in ctayne cases.	Sections three and five.
27 Hen. 8. c. 24.	An Acte for recontynuing of ctayne lib)ties and franchises heretofore taken frome the Crowne.	In section two the words "of eire justices of assise," the words "or justices of "gaole delyvey," the words "justices of eire " justices of assise," and the words "and justices " of gaole delyvey."
33 Hen. 8. c. 24.	An Acte that noe man shal be Justice of Assise in his owne countrie.	The whole Act.
1 Edw. 6. c. 7	An Acte for the contynuance of Actions after the death of anny King of this Realme.	The whole Act except so far as it relates to justices of the peace.
4 Will. & Mar. c. 4.	An Act for takeing Special Bails in the Countrey upon Actions and Suites depending in the Courts of Kings-Bench Comon Pleas and Exchequer att Westminster.	The whole Act.

6TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
1 Anne, c. 2 -	An Act for explaining a Clause in an Act made at the Parliament begun and holden at Westminster the two and twentieth of November in the seventh year of the reign of our Sovereign Lord King William the Third entitled An Act for the better security of His Majesty's Royal Person and Government.	Section five, so far as it relates to commissions and writs in England other than commissions of the peace.
24 Geo. 2. c. 48.	The Michaelmas Term Act, 1750.	The whole Act.
25 Geo. 2. c. 30.	The Calendar Act, 1751 -	In section four the words from "and the usual" to the words "October in "every year" and the words from "And whereas "by another" to the words "ninth day of "November in every "year."
39 Geo. 3. c. 110.	The Judges' Pensions Act, 1799.	The whole Act.
53 Geo. 3. c. 153.	The Judges' Pensions Act, 1813.	The whole Act.
3 Geo. 4. c. 10	The Assize Commission Act, 1822.	The whole Act.
6 Geo. 4. c. 82	The Chief Justice's Pension Act, 1825.	The whole Act.
6 Geo. 4. c. 84	The Judges' Pensions Act, 1825.	The whole Act.
11 Geo. 4. & 1 Will. 4. c. 70.	The Law Terms Act, 1830	Section six.
1 Will. 4. c. 3	The Law Terms (Explanation) Act, 1830.	The whole Act.
3 & 4 Will. 4. c. 71.	The Assizes Act, 1833 -	The whole Act.
6 & 7 Will. 4. c. 87.	The Liberties Act, 1836 -	Section eight.
7 Will. 4. & 1 Vict. c. 30.	The Superior Courts (Officers) Act, 1837.	The whole Act.

6TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
2 & 3 Vict. c. 72.	The Assizes Act, 1839 -	The whole Act.
3 & 4 Vict. c. 65.	The Admiralty Court Act, 1840.	Sections three, four, six, twenty-two and twenty-three.
5 & 6 Vict. c. 103.	The Court of Chancery Act, 1842.	The whole Act.
14 & 15 Vict. c. 41.	The Chief Justice's Salary Act, 1851.	The whole Act.
14 & 15 Vict. c. 83.	The Court of Chancery Act, 1851.	Section eighteen.
15 & 16 Vict. c. 73.	The Common Law Courts Act, 1852.	Section eleven.
15 & 16 Vict. c. 80.	The Court of Chancery Act, 1852.	The whole Act.
15 & 16 Vict. c. 87.	The Court of Chancery Act, 1852.	Sections sixteen, twenty-one and forty-two.
17 & 18 Vict. c. 34.	The Attendance of Witnesses Act, 1854.	The whole Act so far as it authorises the issue of process by the High Court.
18 & 19 Vict. c. 134.	The Court of Chancery Act, 1855.	The whole Act.
20 & 21 Vict. c. 77.	The Court of Probate Act, 1857.	Sections four, thirteen, twenty to twenty-three, twenty-nine, thirty, and forty-six to fifty-three, in section fifty-eight the words "and the decision " of the Court of Pro- " bate on such appeal " shall be final," sections fifty-nine, sixty-one to sixty-four and sixty-six to sixty-nine, eighty-seven, eighty-nine to ninety-three, one hundred and ten and one hundred and nineteen, and Schedule A.
20 & 21 Vict. c. 79.	The Probates and Letters of Administration (Ireland) Act, 1857.	Section ninety-five so far as it relates to grants made in respect of the estates of persons dying on or after the first day of April, nineteen hundred and twenty-three.

6TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
20 & 21 Vict. c. 85.	The Matrimonial Causes Act, 1857.	Sections two, six, seven, twelve, thirteen, sixteen and seventeen, and so far as it relates to the High Court section twenty-one, sections twenty-two to thirty-one, thirty-three to thirty-five, forty-five, fifty-five, fifty-seven, fifty-eight, and sixty-six.
21 & 22 Vict. c. 56.	The Confirmation of Executors (Scotland) Act, 1858.	Section twelve.
21 & 22 Vict. c. 93.	The Legitimacy Declaration Act, 1858.	The whole Act, except section three and except so far as the Act relates to Scotland.
21 & 22 Vict. c. 95.	The Court of Probate Act, 1858.	Sections three, eight, ten, twelve, twenty, twenty-four to twenty-seven, section twenty-nine so far as it relates to grants made in respect of the estates of persons dying on or after the first day of April, nineteen hundred and twenty-three, and sections thirty-five and thirty-seven.
21 & 22 Vict. c. 108.	The Matrimonial Causes Act, 1858.	Sections four, six to eleven, and fifteen.
22 & 23 Vict. c. 21.	The Queen's Remembrancer Act, 1859.	Section seventeen.
22 & 23 Vict. c. 61.	The Matrimonial Causes Act, 1859.	The whole Act.
23 & 24 Vict. c. 91.	The Oxford University Act, 1860.	Section two.
23 & 24 Vict. c. 126.	The Common Law Procedure Act, 1860.	Sections one and twenty-two.
23 & 24 Vict. c. 144.	The Matrimonial Causes Act, 1860.	The whole Act.
24 & 25 Vict. c. 10.	The Admiralty Court Act, 1861.	Sections four, five, seven, eight, ten, eleven, twenty-seven and thirty-five.
27 & 28 Vict. c. 44.	The Matrimonial Causes Act, 1864.	The whole Act so far as it relates to the High Court.

6TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
28 & 29 Vict. c. 48.	The Courts of Justice Building Act, 1865.	Sections eighteen to twenty-one.
29 & 30 Vict. c. 32.	The Matrimonial Causes Act, 1866.	The whole Act.
31 & 32 Vict. c. 77.	The Matrimonial Causes Act, 1868.	The whole Act.
32 & 33 Vict. c. 68.	The Evidence Further Amendment Act, 1869.	Section three so far as it relates to the High Court.
32 & 33 Vict. c. 89.	The Clerks of Assize, &c. Act, 1869.	The whole Act.
32 & 33 Vict. c. 91.	The Courts of Justice (Salaries and Funds) Act, 1869.	Sections twelve and thirteen, so far as they relate to officers of the Supreme Court.
35 & 36 Vict. c. 44.	The Court of Chancery (Funds) Act, 1872.	The whole Act.
35 & 36 Vict. c. 51.	The Judges' Salaries Act, 1872.	In section four the words "in England and".
36 & 37 Vict. c. 31.	The Matrimonial Causes Act, 1873.	The whole Act.
36 & 37 Vict. c. 66.	The Supreme Court of Judicature Act, 1873.	The whole Act except the following provisions thereof, that is to say, paragraph (2) of section twenty-five, sections forty-six, sixty-four and sixty-six.
38 & 39 Vict. c. 41.	The Intestates Widows and Children (Scotland) Act, 1875.	Section three so far as it relates to the resealing of confirmations in England.
38 & 39 Vict. c. 77.	The Supreme Court of Judicature Act, 1875.	The whole Act.
39 & 40 Vict. c. 24.	The Small Testate Estates (Scotland) Act, 1876.	Section three so far as it relates to the resealing of confirmations in England.
39 & 40 Vict. c. 57.	The Winter Assizes Act, 1876.	The whole Act.
39 & 40 Vict. c. 59.	The Appellate Jurisdiction Act, 1876.	Sections fifteen to twenty.
39 & 40 Vict. c. 70.	The Sheriff Courts (Scotland) Act, 1876.	Sections forty-two and forty-three so far as they relate to the resealing of confirmations or additional confirmations in England.

6TH SCH. —*cont.*

Session and Chapter	Title or Short Title.	Extent of Repeal.
40 & 41 Vict. c. 9.	The Supreme Court of Judicature Act, 1877.	The whole Act.
40 & 41 Vict. c. 11.	The Jurisdiction in Rating Act, 1877.	In section three the words from "As to England" to the words "of Justice and".
40 & 41 Vict. c. 46.	The Winter Assizes Act, 1877.	The whole Act.
41 & 42 Vict. c. 19.	The Matrimonial Causes Act, 1878.	The whole Act.
42 & 43 Vict. c. 1.	The Spring Assizes Act, 1879.	Sections two and four.
42 & 43 Vict. c. 78.	The Supreme Court of Judicature (Officers) Act, 1879.	The whole Act.
43 Vict. c. 14	The Customs and Inland Revenue Act, 1880.	Subsection (2) of section ten.
43 & 44 Vict. c. 10.	The Great Seal Act, 1880	The whole Act.
44 & 45 Vict. c. 41.	The Conveyancing Act, 1881.	Section forty-eight.
44 & 45 Vict. c. 59.	The Statute Law Revision and Civil ProcedureAct, 1881.	Section six.
44 & 45 Vict. c. 68.	The Supreme Court of Judicature Act, 1881.	The whole Act except section one, and the third and fourth paragraphs of section nine.
45 & 46 Vict. c. 50.	The Municipal Corporations Act, 1882.	Subsection (3) of section one hundred and eighty-two.
46 & 47 Vict. c. 29.	The Supreme Court of Judicature (Funds, &c.) Act, 1883.	The whole Act.
46 & 47 Vict. c. 49.	The Statute Law Revision and Civil Procedure Act, 1883.	The whole Act.
47 & 48 Vict. c. 61.	The Supreme Court of Judicature Act, 1884.	The whole Act.
47 & 48 Vict. c. 68.	The Matrimonial Causes Act, 1884.	The whole Act.
51 & 52 Vict. c. 25.	The Railway and Canal Traffic Act, 1888.	Section six.

6TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
51 & 52 Vict. c. 43.	The County Courts Act, 1888.	Sections sixteen, one hundred and twenty-five and one hundred and eighty-seven.
52 & 53 Vict. c. 47.	The Palatinate Court of Durham Act, 1889.	Section eleven to the words "for the time being and."
52 & 53 Vict. c. 49.	The Arbitration Act, 1889	Sections thirteen to seventeen and, so far as they relate to references under an order of the High Court, sections eighteen, nineteen, twenty and twenty-three.
53 & 54 Vict. c. 23.	The Chancery of Lancaster Act, 1890.	Subsection (1) of section four.
53 & 54 Vict. c. 44.	The Supreme Court of Judicature Act, 1890.	The whole Act.
54 & 55 Vict. c. 53.	The Supreme Court of Judicature Act, 1891.	Sections one, two, and four.
57 & 58 Vict. c. 16.	The Supreme Court of Judicature (Procedure) Act, 1894.	The whole Act.
57 & 58 Vict. c. 30.	The Finance Act, 1894 -	Subsection (4) of section sixteen so far as it relates to the resealing in England of Irish grants made in respect of the estates of persons dying on or after the first day of April, nineteen hundred and twenty-three.
57 & 58 Vict. c. 60.	The Merchant Shipping Act, 1894.	Subsections (2) and (3) of section five hundred and forty-seven and section five hundred and sixty-five so far as they relate to the High Court in England.
59 & 60 Vict. c. 51.	The Vexatious Actions Act, 1896.	The whole Act.
62 & 63 Vict. c. 6.	The Supreme Court of Judicature Act, 1899.	The whole Act.
2 Edw. 7. c. 31.	The Supreme Court of Judicature Act, 1902.	The whole Act.
7 Edw. 7. c. 12.	The Matrimonial Causes Act, 1907.	The whole Act.

6TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
7 Edw. 7. c. 23.	The Criminal Appeal Act, 1907.	Subsection (3) of section twenty.
7 Edw. 7. c. 47.	The Deceased Wife's Sister Marriage Act, 1907.	Section three.
8 Edw. 7. c. 41.	The Assizes and Quarter Sessions Act, 1908.	In section one the words "the commission day in "the case of assizes and", and the words "assize or" in subsection (1); the words "assizes or" wherever those words occur in subsection (3); subsection (4); the words "assizes or", the words "commis- "sion day or", and the words "as the case may "be" in subsection (5). In section two the words "assizes or" and the words "court of assize or". In section four the words "as respects assizes the "clerk of assize and" and the words from "the ex- "pression commission "day" to the end of the section.
8 Edw. 7 c. 51.	The Appellate Jurisdiction Act, 1908.	Section six.
9 Edw. 7. c. 11.	The Judicature (Rule Committee) Act, 1909.	The whole Act.
10 Edw. 7. & 1 Geo. 5. c. 12.	The Supreme Court of Judicature Act, 1910.	The whole Act.
1 & 2 Geo. 5. c. 57.	The Maritime Conventions Act, 1911.	Section five so far as it relates to the High Court.
3 & 4 Geo. 5. c. 21.	The Appellate Jurisdiction Act, 1913.	Section two.
9 & 10 Geo. 5. c. 30.	The Official Solicitor Act, 1919.	The whole Act.
10 & 11 Geo. 5. c. 81.	The Administration of Justice Act, 1920.	Sections one, five, six, seven and eight; section fifteen so far as it relates to the High Court; and sections nineteen and twenty.

6TH SCH. —*cont.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
11 & 12 Geo. 5. c. 24.	The Deceased Brother's Widow's Marriage Act, 1921.	Subsection (2) of section one.
11 & 12 Geo. 5. c. 56.	The Supreme Court Officers (Retirement, Pensions, &c.) Act, 1921.	The whole Act.
13 & 14 Geo. 5. c. 19.	The Matrimonial Causes Act, 1923.	The whole Act.
15 & 16 Geo. 5. c. 23.	The Administration of Estates Act, 1925.	Sections four, ten to fourteen, sixteen, and eighteen to twenty.
15 & 16 Geo. 5. c. 28.	The Administration of Justice Act, 1925.	Sections one to eighteen, twenty-one, twenty-four to twenty-six and Schedules one to three.

CHAPTER 50.

An Act to provide for the Registration of Employers of Theatrical Employees and for purposes incidental thereto. [31st July 1925.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Register of theatrical employers to be established in local areas.

1. Every registration authority within the meaning of this Act shall establish and keep a register of theatrical employers. The register of theatrical employers shall be in the prescribed form and shall be open to inspection by any member of the public during ordinary office hours on payment of the prescribed fee.

Publication of intention to register.

2. Every theatrical employer as hereinafter defined shall, not more than six weeks nor less than twenty-one days before registering himself as a theatrical employer, insert in a London newspaper devoted to the interest